IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR BRADFORD COUNTY, FLORIDA

CASE NUMBER: 04-2022-CA-000279-CAAM
Circuit Civil Division

GRACE UNITED METHODIST CHURCH INC
BEACH UNITED METHODIST CHURCH INC
BETHEL UNITED METHODIST CHURCH OF LAKE CITY INC
BOYD NEW LIFE METHODIST CHURCH INC
BRISTOL UNITED METHODIST CHURCH INC
CALVARY UNITED METHODIST CHURCH INC
CALVARY UNITED METHODIST CHURCH INC OF TALLAHASSEE
CHRIST UNITED METHODIST CHURCH OF HASTINGS FL INC
CITRA FIRST UNITED METHODIST CHURCH INC
COMMUNITY UNITED METHODIST CHURCH OF SAN ANTONIO I
CROSSROAD UNITED METHODIST CHURCH INC
FAITH UNITED METHODIST CHURCH INC
FIRST UNITED METHODIST CHURCH OF APOPKA INC
FIRST UNITED METHODIST CHURCH OF BUSHNELL INC
FIRST UNITED METHODIST CHURCH OF FROSTPROOF INC
FIRST UNITED METHODIST CHURCH OF HOBE SOUND FL INC
FIRST UNITED METHODIST CHURCH OF MACCLENNY INC
FIRST UNITED METHODIST CHURCH OF TARPON SPRINGS IN
FIRST UNITED METHODIST CHURCH OF ZEPHYRHILLS INC
FLORAHOME UNITED METHODIST CHURCH INC
FLORAL CITY UNITED METHODIST CHURCH INC
FORT OGDEN COMMUNITY CHURCH INC
FORT WHITE UNITED METHODIST CHURCH INC
GENEVA UNITED METHODIST CHURCH INC
GLEN JULIA METHODIST CHURCH
GRACE UNITED METHODIST CHURCH OF LAKE MARY INC
GREENSBORO UNITED METHODIST CHURCH
HICKORY GROVE UNITED METHODIST CHURCH INC
KEYSTONE UNITED METHODIST CHURCH INC
LAKE BIRD METHODIST CHURCH INC
LAKE SHORE UNITED METHODIST CHURCH INCORPORATED
LEE UNITED METHODIST CHURCH INC
LIFESONG UNITED METHODIST CHURCH INC
MADISON FIRST UNITED METHODIST CHURCH INC

MIMS UNITED METHODIST CHURCH INC
MYAKKA CITY UNITED METHODIST CHURCH INC
OLD MIAKKA UNITED METHODIST CHURCH INC
OLD MOUNT PLEASANT UNITED METHODIST CHURCH
PAISLEY UNITED METHODIST CHURCH INC
PEACE UNITED METHODIST CHURCH HISPANIC INC
PINETTA UNITED METHODIST CHURCH INC
PISGAH UNITED METHODIST CHURCH INC
RIDGE MANOR COMMUNITY UNITED METHODIST CHURCH INC
ROBERT M HENDRY MEMORIAL METHODIST CHURCH INC
ROCKLEDGE UNITED METHODIST CHURCH INC
SARDIS MEMORIAL UNITED METHODIST CHURCH
SPRING HILL UNITED METHODIST CHURCH
SPRING LAKE UNITED METHODIST CHURCH INC
SYCAMORE UNITED METHODIST CHURCH INC
TALLAHASSEE HEIGHTS UNITED METHODIST CHURCH INC
THE FIRST UMC OF INTERLACHEN INC
THE FIRST UNITED METHODIST CHURCH OF OVIEDO INC
THE LAKE GIBSON UNITED METHODIST CHURCH INC
THE MICCOSUKEE UNITED METHODIST CHURCH INC
TRINITY UMC OF CHARLOTTE HARBOR INC
TRINITY UNITED METHODIST CHURCH OF PALATKA INC
UNITED METHODIST CHURCH OF TRENTON INC
UNIVERSITY CARILLON UNITED METHODIST CHURCH INC
WESCONNETT UNITED METHODIST INC
WESLEY HISPANIC UNITED METHODIST CHURCH INC
WESLEY MEMORIAL UMC OF LAKE CITY INC
YULEE UNITED METHODIST CHURCH INC
BETHLEHEM UNITED METHODIST CHURCH INC
FIRST UNITED METHODIST CHURCH NEW SMYRNA BEACH
FIRST UNITED METHODIST CHURCH OKEECHOBEE
FREEDOM UNITED METHODIST CHURCH,
Plaintiffs,

-vs-

THE BOARD OF TRUSTEES OF FL ANNUAL CONF OF UMC INC
KENNETH H CARTER JR
ALEX SHANKS
YONIECE DIXON
JIM MANUEL
CRAIG SMELSER
JAMES L LUTHER

DIONNE HAMMOND
BOB BUSHONG
EMILY HOTHO
DAVID ALLEN
DURWOOD FOSHEE
WAYNE WIATT
CYNTHIA WEEMS,
Defendants.

ORDER ON DEFENDANTS' MOTION TO DISMISS AMENDED COMPLAINT, MOTION FOR SANCTIONS, AND MOTION TO STAY DISCOVERY

This matter is before the Court on Defendants' Motion to Dismiss Plaintiffs' Amended Complaint, Motion for Sanctions Against Plaintiffs, and Motion to Stay Discovery. A hearing on these motions was held on Tuesday, February 21, 2023. At the hearing, the Defendants argued that the First Amendment prohibits the Court from having jurisdiction over the claims in the Amended Complaint, that the Local Action Rule vests jurisdiction in the territory where the individual Plaintiff churches reside, and that the Amended Complaint is so clearly devoid of merit both on the facts and the law as to require sanctions. The Court has considered the arguments of counsel, the pleadings, and the relevant law applicable to the issues of this case. Although the Defendants raise a number of grounds for dismissal, the ultimate issue this Court must address is whether the present law in the State of Florida requires a secular court to defer to the decision of the highest ecclesiastical body regarding an intra-church property dispute.

BACKGROUND

The Plaintiffs are seventy-one churches throughout the state of Florida affiliated with the United Methodist Church ("UMC"). The Defendants are the Board of Trustees of the Florida Annual Conference of the United Methodist Church (the "Annual Conference"), cabinet officers of the Florida Conference of the UMC, and Kenneth H. Carter, Jr.—the Bishop of the UMC. The UMC is connectional in nature, in which every local church is part of a larger network of churches that make the whole of the UMC. Under the UMC hierarchy, a local church is grouped together with other churches in a geographic area as part of a district. Multiple districts form one of fifteen annual conferences, which then form one of the five jurisdictional conferences. These jurisdictional conferences are then governed by the church law established by the General Conference.

The General Conference is the denomination's top lawmaking assembly and has the sole authority to speak on behalf of the church. The UMC is governed by the Book of Discipline of

the United Methodist Church (the "Discipline"), which is "the instrument for setting forth the laws, plan, polity, and process by which United Methodists govern themselves." (The Discipline, p. V, 2016). Only the General Conference, which meets every four years, has the power to change the Discipline.

The Discipline itself acknowledges that the UMC is incapable of holding title to property. Therefore, like many other hierarchical church organizations[1], the UMC through the Discipline imposes a trust on property held by local churches for the use and benefit of the UMC. Chapter Six, Section 1, Paragraph 2501 of the Discipline states: "All properties of United Methodist local churches and other United Methodist agencies and institutions are held, in trust, for the benefit of the entire denomination, and ownership and usage of church property is subject to the Discipline. . . . The trust requirement is thus a fundamental expression of United Methodism." Local churches are required to have a trust clause contained in their deeds which states that the property is held in trust for the UMC, solely for the benefit of the UMC, and that the local church has no right to the property.

The schism that brought the instant case to the Court erupted during the General Conference of 2019. During this General Conference, delegates affirmed Paragraph 2702, known as the "Traditional Plan," by a vote of 438-384. Currently under the Discipline, Paragraph 2702 subjects a bishop or clergy member to removal from office if they engage in "practices declared by The United Methodist Church to be incompatible with Christian teachings, including but not limited to: being a self-avowed practicing homosexual; or conducting ceremonies which celebrate homosexual unions; or performing same-sex wedding ceremonies." The Plaintiffs allege that the Defendants refuse "to abide by and enforce the doctrinal positions of the Book of Discipline explicitly rejecting the doctrinal positions it encourages and allows." Namely, the Plaintiffs contend that the Defendants have allowed or encouraged bishops and clergy to violate the Discipline by officiating same-sex weddings or being openly gay. Because of this, the Plaintiffs wish to leave the UMC and reaffiliate with another denomination—the Global Methodist Church.

In response to the number of churches seeking to leave the UMC, Paragraph 2553 of the Discipline was enacted during the 2019 General Conference. Under this provision, if two-thirds of the local church's congregation vote to disaffiliate from the UMC, the church must satisfy any loans from the conference, pay any fees to transfer title, pay two years of apportionments, and pay a portion of future pension liabilities plus any arrearages in order to retain their church property. The Plaintiffs, who may be unable to afford the potentially onerous financial cost of disaffiliation under Paragraph 2553, are faced with either remaining a part of a religious organization they believe has abandoned its central tenants, or giving up the land where their relatives are buried, the sanctuary where their children were baptized, and the place in their community where the most important moments in their lives are marked.

[1] *See, e.g.,* Title I.7.4 of the Canons of the Episcopal Church in the United States of America, also known as the "Dennis Canon."

In response, the Defendants seek dismissal of this case because the highest ecclesiastical body within the UMC has already rendered judgment on the issues raised in the Plaintiffs' complaint. The Defendants contend that this Court, under the law currently in place in the State of Florida, has no jurisdiction to adjudicate the dispute among the parties and must defer to the decision of the UMC.

LEGAL STANDARD

A court must dismiss a complaint if it lacks subject matter jurisdiction of the claims. When evaluating a motion to dismiss for lack of subject matter jurisdiction, "the trial court is free to weigh the evidence and satisfy itself as to the existence of its power to hear the case. In short, no presumptive truthfulness attaches to plaintiff's allegations, and the existence of disputed material facts will not preclude the trial court from evaluating for itself the merits of jurisdictional claims." Mortensen v. First Fed. Sav. and Loan Ass'n, 549 F.2d 884, 891 (3d Cir. 1977). The Defendants argue that the Court lacks subject matter jurisdiction under Florida's policy of mandatory deference to the decision of the highest body within a hierarchical church. The Plaintiffs believe that the neutral application of Florida trust law would permit the Court to adjudicate the disputes presented in the complaint. Under either approach, the Defendants believe that because the Court would be required to evaluate and interpret the discretionary decisions of church administration and the application of church law, the Court lacks subject matter jurisdiction under the ecclesiastical abstention doctrine. As with all matters involving constitutional rights, it is necessary to start with the text of the Constitution first in considering the issues of this case.

ANALYSIS

THE FIRST AMENDMENT

The foundational argument in support of our Constitution is that freedom and liberty are inherently tied to a person's right to practice their faith. "In a free government, the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other, in the multiplicity of sects." THE FEDERALIST NO. 51, (James Madison). Reflecting this belief, the First Amendment of the United States Constitution states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech." Under incorporation through the Fourteenth Amendment, the same prohibition is applicable to state governments. Gitlow v. New York, 268 U.S. 652 (1925). Religious freedom is also guaranteed under Article I, Section 3 of the Florida Constitution. The scope of the protection of the freedom of speech under Florida law is the same as is required under the First Amendment. See Florida Canners Association v. State Department of Citrus, 371 So.2d 503 (Fla. 2d DCA 1979). Therefore, in Florida the state constitutional protection of the freedom of religion must be consistent with the protection under the United States Constitution.

The Religion Clauses of the First Amendment—the Free Speech Clause, the Free Exercise Clause, and the Establishment Clause—work together to protect the religious freedom of the individual and the group. Religious expression is protected through the Free Exercise Clause and the Free Speech Clause. "These Clauses work in tandem. Where the Free Exercise Clause protects religious exercises, whether communicative or not, the Free Speech Clause provides overlapping protection for expressive religious activities." Kennedy v. Bremerton School District, 142 S.Ct. 2407, 2421 (2022). The Supreme Court of the United States has explained that the Free Exercise Clause "embraces two concepts—freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society." Cantwell v. Connecticut, 310 U.S. 296, 303–04 (1940). The Free Exercise Clause "protects not only the right to harbor religious beliefs inwardly and secretly. It does perhaps its most important work by protecting the ability of those who hold religious beliefs of all kinds to live out their faiths in daily life." Kennedy, 142 S.Ct at 2421.

Additionally, the First Amendment protects religious freedom through the interplay of the Establishment Clause and the Free Exercise Clause. The Supreme Court of the United States has recognized a "'play in the joints' between what the Establishment Clause permits and the Free Exercise Clause compels." Trinity Lutheran Church of Columbia, Government Inc. v. Comer, 137 S.Ct. 2012, 2019 (2017)(*quoting* Locke v. Davey, 540 U. S. 712, 718 (2004)). These two clauses prohibit direct interference by the state into strictly religious matters and forbid discrimination and unequal treatment on the basis of religious status. Under the First Amendment, a religious organization has the right to decide for itself matters of church government, faith, and doctrine free of state interference. See Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in North America, 344 U.S. 94, 115 (1952)("Freedom to select the clergy . . . must now be said to have federal constitutional protection as a part of the free exercise of religion against state interference.")

The Free Exercise Clause also prohibits governmental actions that "penalize religious activity by denying any person an equal share of the rights, benefits, and privileges enjoyed by other citizens." Lyng v. Northwest Indian Cemetery Protective Assn., 485 U. S. 439, 449 (1988). The Supreme Court of the United States has repeatedly confirmed that "denying a generally available benefit solely on account of religious identity imposes a penalty on the free exercise of religion that can be justified only by a state interest 'of the highest order.'" Trinity Lutheran Church of Columbia, Government Inc. v. Comer, 137 S.Ct. 2012, 2018 (2017)(*citing* McDaniel v. Paty, 435 U.S. 618, 628 (1978)). A violation of the Establishment Clause can arise though statutory law, through court action in civil lawsuits, or through any application of state power. See Kreshik v. Saint Nicholas Cathedral, 363 U.S. 190, 191 (1960). If a policy discriminates against a church merely because of its status as a church, it is odious to our Constitution. See Espinoza v. Montana Department of Revenue, 140 S. Ct. 2246, 2255 (2020). State action that targets a religious group for "special disabilities" based on their "religious status" is subject to the strictest scrutiny. See Church of Lukumi Babalu Aye, Inc. v. Hialeah, 508 U.S. 520, 533, 542, (1993). The Plaintiffs believe that any policy that deprives them of the right to litigate their claims denies them a right generally available to all solely because of their religious status.

Therefore, the issue before this Court is whether it has the power to resolve the intra-church property dispute, and if it does not, does the current law of the State of Florida deny the Plaintiffs the generally available benefit of access to the courts[2] on account of their religious status.

Historically, courts have uses three different methods to resolve disputes over church property. The departure-from-doctrine principle, or "English approach," requires courts to award property to whichever faction of the church adheres to "the true standard of faith." Watson v. Jones, 80 U.S. 679, 727 (1871). The Supreme Court of the United States has rejected this test as entangling courts in the consideration of doctrinal matters but has left states free to choose any method so long as it does not violate the First Amendment. "[A] State may adopt any one of various approaches for settling church property disputes so long as it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith." Maryland and Virginia Eldership of Churches of God v. Church of God at Sharpsburg, Inc., 396 U.S. 367, 367-68 (1970) (Brennan, J., concurring). The two methods used by courts are the mandatory deference approach and the neutral principles approach. States are free to adopt either approach, or something in between, so long as the general law relied upon does not "require[] civil courts to resolve doctrinal issues." Id. at 370.

The majority of states follow the neutral principles of law doctrine.[3] The neutral principles method allows courts to settle church property disputes by examining in a purely secular manner the language of deeds, local church charters, state statutes, and provisions of a general church's constitution. In Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church, the Supreme Court recognized that "[c]ivil courts do not inhibit free exercise of religion merely by opening their doors to disputes involving church property. And there are neutral principles of law, developed for use in all property disputes, which can be applied without 'establishing' churches to which property is awarded." 393 U.S.

---

[2] Article 1, Section 21 of the Florida Constitution states, "The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay."

[3] African Meth. Epis. Zion Church v. Zion Hill Meth. Church, Inc., 534 So.2d 224, 225 (Ala.1988); St. Paul Church, Inc. v. Bd. of Trs., 145 P.3d 541, 553 (Alaska 2006); Ark. Presbytery v. Hudson, 40 S.W.3d 301, 306 (Ark. 2001); In re Episcopal Church Cases, 198 P.3d 66, 70 (Cal. 2009); Bishop & Diocese of Colo. v. Mote, 716 P.2d 85, 96 (Colo.1986); Episcopal Church in the Diocese of Conn. v. Gauss, 28 A.3d 302, 316 (Conn. 2011); E. Lake Meth. Epis. Church, Inc. v. Trs., 731 A.2d 798, 810 (Del.1999); Meshel v. Ohev Sholom Talmud Torah, 869 A.2d 343, 354 (D.C.2005); Rector, Wardens, Vestrymen of Christ Church in Savannah v. Bishop of Epis. Diocese, 718 S.E.2d 237, 241 (Ga. 2011); Gospel Tabernacle Body of Christ Church v. Peace Publishers & Co., 506 P.2d 1135, 1138 (Kan. 1973); Fluker Cmty. Church v. Hitchens, 419 So.2d 445, 447 (La.1982); Attorney Gen. v. First United Bapt. Church of Lee, 601 A.2d 96, 99 (Me.1992); From the Heart Church Ministries, Inc. v. African Meth. Epis. Zion Church, 803 A.2d 548, 565 (Md. 2002); Maffei v. Roman Catholic Archbishop, N.E.2d 300, 310 (Mass.2007); Piletich v. Deretich, 328 N.W.2d 696, 701 (Minn.1982); Schmidt v. Catholic Diocese, 18 So.3d 814, 824 (Miss.2009); Presbytery of Elijah Parish Lovejoy v. Jaeggi, 682 S.W.2d 465, 467 (Mo.1984); Hofer v. Mont. Dep't of Pub. Health, 124 P.3d 1098, 1103 (Mont. 2005); Medlock v. Medlock, 642 N.W.2d 113, 128–29 (Neb. 2002); Berthiaume v. McCormack, 891 A.2d 539, 547 (N.H. 2006); Blaudziunas v. Egan, 961 N.E.2d 1107, 1110 (N.Y. 2011); Harris v. Matthews, 643 S.E.2d 566, 570 (N.C. 2007); Serbian Orthodox Church Congregation v. Kelemen, 256 N.E.2d 212, 216 (Ohio 1970); In re Church of St. James the Less, 888 A.2d 795, 805–06 (Pa. 2005); All Saints Parish Waccamaw v. Protestant Epis. Church in Diocese of S.C., 685 S.E.2d 163, 171 (S.C. 2009); Foss v. Dykstra, 342 N.W.2d 220, 222 (S.D.1983); Masterson v. Diocese of Nw. Tex., 422 S.W.3d 594, 606-07 (Tex. 2013); Jeffs v. Stubbs, 970 P.2d 1234, 1250–51 (Utah 1998); Reid v. Gholson, 327 S.E.2d 107, 112 (Va. 1985); Wis. Conf. Bd. of Trs. v. Culver, 627 N.W.2d 469, 475–76 (Wis. 2001).

440, 449 (1969). The Supreme Court has repeatedly held that the First Amendment allows civil courts to resolve religious property disputes by applying neutral principles of law. Jones v. Wolf, 443 U.S. 595, 603 (1979). The neutral principles approach reviews all property issues in secular terms and relies "exclusively on objective, well-established concepts of trust and property law familiar to lawyers and judges...thereby promis[ing] to free civil courts completely from entanglement in questions of religious doctrine, polity, and practice." Id. See also Maryland and Virginia Eldership of Churches of God v. Church of God at Sharpsburg, Inc., 396 U.S. 367 (1970) (Brennan, J., concurring)("Under the 'formal title' doctrine, civil courts can determine ownership by studying deeds, reverter clauses, and general state corporation laws.") The benefit of the neutral principles approach is that "the outcome of a church property dispute is not foreordained." Jones, 443 U.S. at 606.

Florida is among the minority of states[4] that use the mandatory deference approach, which requires courts to defer to and enforce the decision of the highest authority of the ecclesiastical body to which the matter has been carried. Mills v. Baldwin, 377 So.2d 971 (Fla.1980). The rule of deference was first established by the Supreme Court of the United States in Watson v. Jones, which involved a property dispute between pro- and anti-slavery factions of the Presbyterian Church in post-Civil War Kentucky. 80 U.S. 679 (1871). Then, as now, ideological factions within the church clashed over who was the true holder of the faith, and thus the holder of title to the church.

> The right to organize voluntary religious associations to assist in the expression and dissemination of any religious doctrine, and to create tribunals for the decision of controverted questions of faith within the association, and for the ecclesiastical government of all the individual members, congregations, and officers within the general association, is unquestioned. All who unite themselves to such a body do so with an implied consent to this government, and are bound to submit to it. But it would be a vain consent and would lead to the total subversion of such religious bodies, if any one aggrieved by one of their decisions could appeal to the secular courts and have them reversed. It is of the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for.

Id. at 728-729. The rule established by Watson is that "whenever the question of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by the highest of these church judicatories . . . legal tribunals must accept such decisions as final, and as binding on them." Id. at 727. Although Watson was decided in 1871, well-before the First Amendment was made applicable to state action, its reasoning has been reaffirmed by the Supreme Court. See, e.g., Serbian Eastern Orthodox Diocese for the United States and Canada v. Milivojevich, 426 U.S.

[4] Fonken v. Community Church of Kamrar, 339 N.W.2d 810 (Iowa 1983); Bennison v. Sharp, 329 N.W.2d 466 (Mich. 1982); Tea v. Protestant Episcopal Church, 610 P.2d 182 (Nev. 1980); Protestant Episcopal Church v. Graves, 417 A.2d 19 (N.J. 1980); Church of God of Madison v. Noel, 318 S.E. 920 (W.Va.1984).

696, 709 (1976) ("[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.")

Regardless of whether a court employs the neutral principles approach or mandatory deference approach, it is prohibited from deciding any matters that require adjudication of "theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required of them." Diocese of Palm Beach, Inc. v. Gallagher, 249 So. 3d 657, 661 (Fla. 4th DCA 2018). Under the ecclesiastical abstention doctrine, also known as the church autonomy doctrine, a secular court must avoid entanglement in internal church matters or doctrinal matters by deferring to the decision of the highest ecclesiastical body on these issues. Malicki v. Doe, 814 So. 2d 347, 355 (Fla. 2002). Excessive entanglement in religion occurs when "a [secular] court is required to interpret church law, policies, or practices." House of God Which is the Church of the Living God, the Pillar and Ground of the Truth Without Controversy, Inc. v. White et. al., 792 So. 2d 491, 493 (Fla. 4th DCA 2001). If a dispute "is one regarding ecclesiastical polity, a secular court's only legitimate role is ensuring the dispute is committed to religious authorities." Napolitano v. St. Joseph Catholic Church, 308 So. 3d 274, 275 (Fla. 5th DCA 2020).

> [T]he First and Fourteenth Amendments permit hierarchical religious organizations to establish their own rules and regulations for internal discipline and government, and to create tribunals for adjudicating disputes over these matters. When this choice is exercised and ecclesiastical tribunals are created to decide disputes over the government and direction of subordinate bodies, the Constitution requires that civil courts accept their decisions as binding upon them.

Serbian Orthodox Diocese v. Milivojevich, 426 U.S. 696, 724-725 (1976). Therefore, if resolving an otherwise neutral matter requires a court to wade into deciding disputes over religious doctrine, courts must accept as final and binding the decision of the highest religious judicatories as to religious law, principle, doctrine, discipline, custom, and administration. "[W]here a civil court is presented an issue which is a question of religious law or doctrine masquerading as a dispute over church property or corporate control, it must defer to the decisions of the proper church judicatories in so far as it concerns religious or doctrinal issues." All Saints Parish Waccamaw v. The Protestant Episcopal Church in the Diocese of South Carolina, 385 S.C. 428, 444 (S.C. 2009).

The hierarchical court structure in Florida requires the District Courts of Appeal to follow the decisions of the Florida Supreme Court and requires trial courts to follow the holdings of these higher courts. Pardo v. State, 596 So. 2d 665, 667 (Fla. 1992). Therefore, "if the district court of the district in which the trial court is located has decided the issue, the trial court is bound to follow it." Weiman v. McHaffie, 470 So.2d 682, 684 (Fla.1985). The issue presented in this case has been decided by the First District Court of Appeal. See New Jerusalem Church of God, Inc. v. Sneads Cmty. Church, Inc., 147 So. 3d 25, 26 (Fla. 1st DCA 2013). In New Jerusalem, a self-identified hierarchical church brought suit to quiet title after an affiliated local

church conveyed the church property to a non-affiliated church. The First District established a two-pronged test to establish whether a court must defer to the decision of the highest body of the church. First, a court must determine if the church is a hierarchical religious organization. As a matter of law, a trial court must defer to a church's self-characterization of its governance structure. New Jerusalem, 147 So. 3d at 29. Here, both parties agree that the UMC is hierarchical.

Because merely determining that a church is hierarchical could lead to unfair results, the court in New Jerusalem required a second prong to be satisfied before a court defers to the decision of the governing church—"whether [the local church] was affiliated with [the mother church] such that it was a part of, and subordinate to, the hierarchical structure." 147 So. 3d at 29. If a church is hierarchical, and the local church is affiliated with the parent church, a court must defer the decision of the highest body of the church regarding the property dispute. See Full Gospel Temple of Tallahassee v. Redd, 82 So. 2d 589, 590 (Fla. 1955)(holding that, when the appellants withdrew from the parent church, they "carried nothing but their membership with them; the parent church retained title to the properties.")

In this case, the Plaintiffs admit that they are affiliated with the UMC. "Plaintiff Churches are all local churches affiliated with The UMC and are affiliated with the Annual Conference and, thus, the Annual Conference Defendants." Plaintiff's Am. Comp., ¶ 89, see also Plaintiff's Am. Comp., ¶ 113("Grace UMC affiliated with The UMC around the time of the founding in 1968.") The stated issue of the Complaint is that the internal governance and judicial structure of the UMC has not allowed the Plaintiffs to disaffiliate and retain church property under certain provisions of the Discipline. "Rather than allow Plaintiff Churches to amicably disaffiliate as allowed by § 2548.2 of the Discipline, the Annual Conference Defendants are making a concerted effort to prevent disaffiliation by using the trust clause and the newly minted ¶ 2553 to hold for ransom Plaintiff Churches' real and personal property." Plaintiff's Am. Comp., ¶ 109. The Plaintiffs seemingly acknowledge that this Court cannot resolve the dispute under the current state of the law in Florida. "To the extent Plaintiffs' claims are limited by the application of the Ecclesiastical Doctrine, Plaintiffs specifically bring this action for the purpose of seeking appellate relief advocating for the modification or reversal of existing law that would limit Plaintiffs' claims." Plaintiff's Am. Comp., ¶ 120.

The Court agrees with the Plaintiffs that a neutral application of generally applicable laws could address the property issues presented in this case. See, e.g., All Saints Parish Waccamaw v. The Protestant Episcopal Church in the Diocese of South Carolina, 385 S.C. 428, 449 (2009)(holding that an "entity must hold title to property in order to declare that it is held in trust for the benefit of another or transfer legal title to one person for the benefit of another.") The precedent that this Court is bound follow has been established by the First District Court of Appeal in New Jerusalem. The face of the amended complaint states (1) the UMC is hierarchical in nature; (2) the Plaintiffs are affiliated with the UMC; and (3) this dispute has already been decided by the UMC's ecclesiastical tribunals. Under New Jerusalem, this Court does not have the power to adjudicate the intrachurch property dispute presented in the Plaintiff's Amended Complaint and must defer to the decision of the UMC. "If the trial court determines that Iglesia,

Inc. is affiliated with the Church of the Nazarene, and thereby the District, as a subordinate, then deference to the District's determination is required and the trial court is precluded by the ecclesiastical abstention doctrine from interfering with a matter of church governance." Dist. Advisory Bd. of S. Fla. Dist. v. Centro De Alabanza Oasis W Palm Beach, Inc., 338 So.3d 936, 943 (Fla. 4th DCA 2022).

THE LOCAL ACTION RULE

An additional concern arises in Count II of the Plaintiffs' Amended Complaint, which seeks a declaratory judgment that the trust clause in the deeds of the various local churches is invalid. Of the seventy-one remaining Plaintiffs, only one church property is located within Bradford County. The remainder of the churches stretch from Altoona to Zolfo Springs. Pursuant to section 47.011, Florida Statutes, actions involving property shall only be brought in the county in which the property in litigation is located. This long-established "local action rule" specifically provides that "[t]he circuit court in this state, under our Constitution and laws, cannot by its officers take possession of property beyond its territorial limits." Ga. Cas. Co. v. O'Donnell, 109 Fla. 290, 147 So. 267, 268 (1933). However, the presence of real property as an issue does not necessarily make it a local action. Rather, the inquiry depends on the underlying major question in the case—is the relief sought a change in title or for the payment of money. Lakeland Ideal Farm & Drainage District v. Mitchell, 122 So. 516 (1929).

Under the local action rule, when the property sits outside the court's territorial jurisdiction and the action before the court is to determine the title to the property, the action is local to the circuit where the property is located. See Dep't of Natural Res. v. Antioch Univ., 533 So. 2d 869, 872 (Fla. 1st DCA 1988). Although the parties discussed venue issues at the hearing, the local action rule pertains to a court's subject matter jurisdiction to decide disputes related to real property located outside the court's territorial boundary. Hudlett v. Sanderson, 715 So.2d 1050, 1052 (Fla. 4th DCA 1998). Generally, equitable remedies that affect title to property, such as recission of a deed, are not subject to the local action rule. "[C]ourts of equity having jurisdiction of the person of a party have exercised the power to compel him to perform a contract, execute a trust, or undo the effects of a fraud, notwithstanding it may relate to or incidentally affect the title to land in another jurisdiction." Royal v. Parado, 462 So.2d 849, 854 (Fla. 1st DCA 1985).

The relief sought by the Plaintiffs in this case is to void the language of the trust as unenforceable, which would then extinguish any rights the UMC has to all church properties. "[A] suit primarily seeking transfer of title to real property is considered to be quasi in rem and is required to be brought in the county where the land is situated." Ocean Bank v. State, Dept. of Fin. Serv., 902 So.2d 833, 835 (Fla. 1st DCA 2005). In Ocean Bank, the Leon County Circuit court granted a consent order appointing a receiver for the purpose of liquidating real property located in Dade County. After the receiver was appointed, Ocean Bank brought a mortgage foreclosure action in Dade County against the real property. The bank sought prohibition on the grounds that the Leon Circuit Court was exceeding its subject matter jurisdiction in a receivership action by presiding over matters directly related to a foreclosure action pending

against real property located in Dade County. The First District Court of Appeal agreed and granted the writ of prohibition. The Court noted:

> Although a mortgage does not transfer legal title in Florida, it does subject the title to a lien, and a successful foreclosure would transfer legal title to the property. Here, if the receivership court voids the mortgages, then Ocean Bank would lose its liens and the foreclosure action would be over.

Id. This Court is being asked to decide the validity of a trust clause either included in or imposed on the deeds of seventy churches outside of Bradford County. The essence of this case is who has the right to control the church properties. "[T]he local action rule, which governs subject matter jurisdiction, provides that where land lies outside a circuit court's territorial jurisdiction and the purpose of an action is to determine the question of title to the land, the action is local to the circuit in which the land lies." Seven Hills, Inc. v. Bentley, 848 So.2d 345, 350 (Fla. 1st DCA 2003). The underlying question that must be answered is the purpose of the action against the property. See State ex rel. S. Brevard Drainage Dist. v. Smith, 170 So. 440, 441 (Fla. 1936) (holding that a proceeding in rem is one taken against property, having for its object the disposition of property). If this Court voids the trust clause, then the UMC would lose its right to control any of the church properties, and the Plaintiffs would have title to the properties clear of any obligation to the UMC. Cf. Seven Hills, Inc., 848 So. at 351-352 ("[B]ecause title was not the underlying major question in this action, and because the necessary result of the Final Judgment did not cause one of the parties to gain or lose an interest in real estate, the local action rule is inapplicable.")

As the purported beneficiary of trust created by the local churches, the UMC would lose an interest in the real property should the Court determine that it breached its fiduciary duty to the local churches. In Antioch University, the residual beneficiary of an estate sought a declaratory judgment that the state had violated conditions of the deed, thereby causing the property to revert back to beneficiary in fee simple. 533 So. 2d 869. The First District Court of Appeal held that the trial court erred in retaining jurisdiction over the complaint based on the local action rule since the underlying major question was whether beneficiary, as a result of the state's breach, held fee simple title to the exclusion of the current titleholder. Id. at 873.

Even if the Court has the power to decide the equitable issues related to the trust in this case, it cannot pursuant to the local action rule issue any order which would vest legal title in a party. See Dep't of Law Enforcement v. Real Property, 588 So.2d 957, 966 (Fla.1991). Should this Court issue an order declaring who as between the UMC and local churches is entitled to the property, because it does not have territorial jurisdiction, the Court must transfer the case to a county where the property lies for the order to become effective. "Although a trial court with in personam jurisdiction may determine who as between the State and the defendant is entitled to the property, the court must transfer the case to a court with in rem jurisdiction if the declaration is to be given effect. As indicated above, the local action rule precludes a court that lacks in rem jurisdiction from transferring title." Ruth v. Dep't of Legal Affairs, 684 So.2d 181, 185 (Fla.1996). If this Court is being asked to decide whether a breach by the UMC of their fiduciary obligation vests an unencumbered title in the Plaintiffs, then it seems that the local action rule

dictates that the circuit courts having territorial jurisdiction over the property should hear those claims.

SANCTIONS UNDER §57.105

As a final matter, the Defendants have moved for sanctions under §57.105, Florida Statutes, on the basis that the Plaintiffs' claims are not supported by the application of existing law to the material facts of this case. "Section 57.105 fees will not be awarded unless the court finds 'a total or absolute lack of a justiciable issue, which is tantamount to a finding that the action is frivolous ... and so clearly devoid of merit both on the facts and the law as to be completely untenable.'" Muckenfuss v. Deltona Corp., 508 So.2d 340, 341 (Fla.1987)(citing Whitten v. Progressive Casualty Insurance Co., 410 So.2d 501, 505 (Fla.1982)). "Section 57.105 requires an explicit finding by the trial court that there was a complete absence of a justiciable issue of law or fact raised by the plaintiff in the action." Vasquez v. Provincial South, Inc., 795 So.2d 216, 218 (Fla. 4th DCA 2001).

The issue is whether the Plaintiffs' attempt to change the existing law should subject them to sanctions. The Court finds that the Plaintiffs have raised a good faith attempt to change the existing law from mandatory deference to a neutral principles approach. "[W]e should not impose a penalty on a party who attempts to raise novel questions of law or who, in good faith, attempts to move the law in a slightly different direction." Builders Shoring and Scaffolding v. King, 453 So.2d 534 (Fla. 5th DCA 1984). Because the existing facts applied to the proposed change in law would present a justiciable issue, the Plaintiffs are not subject to sanctions under §57.105. "Where a party asserts a good faith attempt to change an existing rule of law, that party is not subject to attorney's fees under section 57.105." Vasquez, 795 So.2d at 218. Therefore, the Defendants' Motion for Sanctions is denied.

CONCLUSION

Under the mandatory deference approach in Florida, coupled with the local action rule, this Court does not have jurisdiction to adjudicate the claims raised in the Plaintiffs' Amended Complaint. Because of this lack of jurisdiction, the Court has not considered the issues of standing, venue, or failure to state a cause of action alternately raised in the Defendants' Motion to Dismiss. With the Court's ruling on the jurisdiction issues, the Defendants' Motion to Stay Discovery is deemed moot.

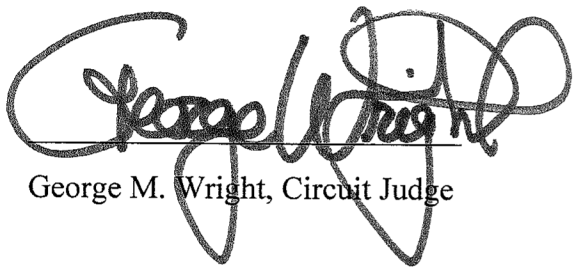
The Court cannot say that the Plaintiffs' complaint demonstrates an absolute lack of a justiciable issue. To the contrary, this type of case is being litigated throughout the country in states that follow the neutral principles approach to resolving church property disputes. Grace United Methodist Church purchased the land in Lawtey, Florida in 1885, and founded the church over 130 years ago in 1888. Nearly eighty years later Grace affiliated with the UMC shortly after its founding in 1968. To be clear, the Court has not examined the deeds, heard testimony, or weighed the evidence as to the Plaintiffs' claims regarding the trust clause. But considering the recent clarification from the Supreme Court of the United States on matters of discrimination and unequal treatment based on religious status, along with the abrogation of Lemon v. Kurtzman, 403 U.S. 602 (1971), it seems to the Court that merely deferring to the UMC on all matters and

denying the Plaintiffs access to the courts to litigate neutral property and trust matters does not meet the strictest scrutiny. Nevertheless, the Court is bound to follow the law as established by the higher courts in the State of Florida. Therefore, it is hereby

ORDERED and ADJUDGED:

1. The Defendants' Motion to Dismiss Amended Complaint is GRANTED.
2. The Defendants' Motion for Sanctions is DENIED.
3. The Defendants' Motion to Stay Discovery is DENIED AS MOOT.

DONE AND ORDERED this 17th day of April, 2023.



George M. Wright, Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies have been furnished by U.S. Mail or via filing with the Florida Courts E-Filing Portal on April 18th, 2023, to the following:

Jeremy David Bailie Jeremy.Bailie@webercrabb.com carol.sweeney@webercrabb.com honey.rechtin@webercrabb.com	Gregory A Hearing gregory.hearing@gray-robinson.com analisa.whiteside@gray-robinson.com michelle.mcleod@gray-robinson.com
David Charles Gibbs dgibbs@gibbsfirm.com lwest@ncll.org	James Joseph Therrell, Jr., Esq. jtherrell@wesleyancovenant.org jtherrell@icloud.com
Kevin Sullivan kevin.sullivan@gray-robinson.com analisa.whiteside@gray-robinson.com michelle.mcleod@gray-robinson.com	Frank Brown frank.brown@gray-robinson.commichelle.mcleod@gray-robinson.comanalisa.whiteside@gray-robinson.com
Sacha Dyson sacha.dyson@gray-robinson.com michelle.mcleod@gray-robinson.com analisa.whiteside@gray-robinson.com	

Anita L. Simoneaux

Anita Simoneaux, Judicial Assistant

Under the Americans with Disabilities Act, if you are a person with a disability who needs any accommodation in order to participate in a proceeding, you are entitled to be provided with certain assistance at no cost to you. Please contact the ADA Coordinator at (352)337-6237 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 1-800-955-8770 via Florida Relay Service.