

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

CARROLLTON FIRST UNITED)
METHODIST CHURCH, INC., et al.,)

Plaintiffs,)

v.)

CIVIL ACTION NO. 23102495-65

THE TRUSTEES OF THE NORTH)
GEORGIA CONFERENCE OF THE)
UNITED METHODIST CHURCH, INC.,)
THE NORTH GEORGIA CONFERENCE)
OF THE UNITED METHODIST CHURCH,)
INC., SUE HAUPERT-JOHNSON and)
ROBIN DEASE, individually and in their)
capacity as Bishop of the United Methodist)
Church and BETH SANDERS, DOUGLAS)
GILREATH, SUSAN G. LANDRY, GREG)
PORTERFIELD, MICHAEL MCQUEEN,)
BYRON THOMAS, JESSICA TERRELL,)
and RODRIGO CRUZ, individually and in)
their capacity as District Superintendents of)
the North Georgia Annual Conference of the)
United Methodist Church,)

ORDER GRANTING PRELIMINARY
INJUNCTION

Defendants.)

The Court acknowledges the United States Constitutional imperative of the separation of church and state as established under the First Amendment, its counterpart in the Georgia Constitution, and the body of law surrounding it whereby this Court is directed to apply neutral principles of law. The Court's ruling is therefore limited to the rights and obligations created by the General Conference of the United Methodist Church's adoption of ¶ 2553 and ¶ 248 in the Book of Discipline, and the subsequent pattern and practice of the Defendants in implementing the Book of Discipline as it concerns ¶ 2553 and ¶ 248.

FILED IN COURT
THIS 5/19 20 23
AT 2:31 P M

CONNIE TAYLOR
SUPERIOR COURT CLERK
COBB COUNTY, GEORGIA

This matter came before the Court on May 16, 2023, for a hearing on Plaintiffs' Motion for Emergency Hearing or in the Alternative Expedited Hearing for Restraining Order ("Motion"). Having considered Plaintiffs' Verified Complaint for Interlocutory and Permanent Injunctive Relief and Damages, their Motion and brief in support, Defendants' response to Plaintiffs' Motion, all attachments to those documents, the testimony of witnesses, and the arguments of counsel presented at the hearing, the Court finds and concludes as set forth below.

Plaintiffs are local churches currently affiliated with the United Methodist Church ("UMC") but who want the opportunity to disaffiliate. The UMC is governed by the Book of Discipline ("Discipline"), to which all persons and entities in the UMC agree to be bound, including all Plaintiffs and all Defendants. In 2019, ¶ 2553 was added to the "Discipline," which is a procedure by which local churches such as Plaintiffs may disaffiliate from the UMC. By its terms, ¶ 2553 expires on December 31, 2023.

The first step in the disaffiliation process under ¶ 2553 is to call and hold a church conference for each church considering disaffiliation. The conference must be conducted as prescribed by ¶ 248 of the "Discipline," which identifies two ways such a conference may be called: either at the district superintendent's discretion or upon request to the district superintendent by the local church. This request has been made by each Plaintiff Church in the case. At that conference, the church determines whether two-thirds of its membership seeks to disaffiliate. If so, then the next step under ¶ 2553 is for the UMC annual conference to sign a disaffiliation agreement with the local church. The requirements of the agreement are found in the Book of Discipline and the forms created by the North Georgia Conference. The agreement is then presented to the annual conference for approval or rejection.

Here, the only way for Plaintiff Churches to hold their prerequisite church conferences is for their respective district superintendents to call them, which in this case is either Defendant Sanders, Gilreath, Landry, Porterfield, McQueen, Thomas, Terrell, or Cruz (collectively “Defendant Superintendents”). At the church conference, the Plaintiff churches must obtain the necessary vote to disaffiliate. A disaffiliation agreement must then be executed by the Defendant Trustees of the North Georgia Conference of the United Methodist Church, Inc. (“Defendant Trustees”). The final step is to present the disaffiliation agreement to Defendant North Georgia Conference of the United Methodist Church, Inc. (“Defendant Conference”) for a vote during a regular or specially called session.

Initially, this Court finds that it has subject matter jurisdiction over Plaintiffs’ claims against Defendants and to rule on Plaintiffs’ Motion. While the principle of separation of church and state embodied in the First Amendment to the United States Constitution and in the Georgia Constitution of 1983 (Art. I, Sec. I, Par. IV) prevents courts from deciding questions involving matters of church ecclesiology, discipline, or governance, it does not prevent courts from deciding civil disputes that do not require any intrusion or excessive entanglement into ecclesiastical matters. *Presbytery of Greater Atlanta, Inc. v. Timberridge Presbyterian Church, Inc.*, 290 Ga. 272 (2011); *Rector v. Bishop of the Episcopal Diocese of Georgia, Inc.*, 290 Ga. 95 (2011). See also *Waverly Hall Baptist Church, Inc. v. Branham*, 276 Ga. App. 818, 820 (2005); *Smith v. Mount Salem Missionary Baptist Church*, 289 Ga. App. 578, 579 (2008); *Srisovana v. Cambodian Buddhist Soc’y, Inc.*, 269 Ga. App. 600, 602 (2004). Here, it is undisputed that all persons and entities associated with the UMC are bound to act as dictated by the “Discipline.” Plaintiffs’ Motion argues that Defendants have failed to abide by the clear and express terms of the

“Discipline.” Because their Motion presents a question of property rights and of contract interpretation and application, and ¶ 2553 and ¶ 248 of the Book of Discipline creates a property interest for the Plaintiffs, it can be decided based upon neutral legal principles without any impermissible entanglement in uniquely ecclesiastical affairs.

The Court finds the evidence supports the granting of a preliminary injunction. The four elements this Court must consider in determining whether to grant a preliminary injunction are set out in *State of Ga. v. Fed. Def. Program, Inc.*, 315 Ga. 319 (2022), as follows: (1) whether there is a substantial threat that the moving party will suffer irreparable injury if the injunction is denied; (2) whether the threatened injury to the moving party outweighs any threatened harm that an injunction may do to the nonmoving party; (3) whether there is a substantial likelihood that the moving party will prevail on the merits of its claims at trial; and (4) whether granting the injunction will disserve the public interest.

The first factor, irreparable injury, is the most important because the main purpose of a preliminary injunction is to temporarily preserve the status quo so as to keep the parties from injuring each other before the case can be tried. *Id.*, citing *Western Sky Financial, LLC v. State of Georgia*, 300 Ga. 340 (2016); *Bishop v. Patton*, 288 Ga 600, 604 (2011). Restoring the status quo does not simply mean holding the parties to their current state of affairs, it can also mean restoring the status quo ante in order to “shut[] out defendants seeking shelter under a current ‘status quo’ precipitated by their wrongdoing.” *No. Am. Soccer League, LLC v. United States Soccer Fed’n, Inc.*, 883 F.3d 32, 37 n. 5 (2d Cir. 2018). This Court may issue a mandatory injunction requiring some action by the non-movant if it is necessary to preserve the status quo ante. *See., e.g., Grossi Consulting, LLC v. Sterling Currency Grp, LLC*, 290 Ga. 386 (2012); *Byelock v. Michel Herbelin*

United States, 275 Ga. 505 (2002); *Cobb Cty v. Mable Oak Dev., LLC*, 366 Ga. App. 561 (2023).

The Court finds that the status quo is that state of affairs dictated by ¶¶ 2553 and 248 of the “Discipline” and is clear on its face. Therefore, in order to restore the status quo, it is necessary for the parties to adhere to the unequivocal meaning of ¶ 2553 and ¶ 248. The relevant portion of ¶ 248 states that a church conference “may be called at the discretion of the district superintendent or following a written request to the district superintendent by . . . the church council.” This language is in the disjunctive such that the conference *may* be called by the district superintendent in his discretion, or *must* be called by the district superintendent when requested by the church. Any other construction would violate the established canons of construction by which Georgia courts construe contracts, including that a document must be construed to give effect, if possible, to all of its language. While the Court does not find there exists an absolute right to disaffiliate, ¶ 2553 and ¶ 248 are clear in its creation of a right for a congregation to vote. ¶ 2553 and ¶ 248, therefore, creates an interest in both contract and property rights for Plaintiff churches, and the Defendants have not shown any authority which allows the Defendants to abrogate those rights by “pausing” the operation of disaffiliation under ¶ 2553 and ¶ 248 of the Book of Discipline.

As to the first factor of the preliminary injunction test, irreparable injury to the movant, this Court finds that there is a substantial likelihood that Plaintiffs will suffer irreparable injury if the requested injunction is not granted. The only annual conference that Defendant Conference has scheduled for 2023 is set to begin on June 1, 2023. If Plaintiffs are prevented from having their church conference votes in time for a vote at the 2023 conference, the sun will set on ¶ 2553 at the end of 2023 and they will forever and irreparably lose their opportunity to disaffiliate pursuant to that Paragraph.

As to the second factor, weighing Plaintiffs' possible injury from no injunction with Defendants' possible injury from an injunction, this Court finds that the potential injury to Plaintiffs far outweighs any possible injury to Defendants. In fact, Defendants will suffer no injury at all from being required to comply with the terms of the "Discipline" to which they have already agreed to be bound. The "pause," though requiring the Defendant to work on a compressed timeline to comply with this order, is found to be the instigating factor for any injury to the Defendant as a result of this order.

As to the third factor, the Court finds that Plaintiffs have shown a substantial likelihood of success on the merits. Without the need to consider the likelihood of success on each individual claim, this Court finds that Plaintiffs have set forth sufficient and credible allegations and argument in support of their claims. Furthermore, the issue before this Court on an emergency basis is not the ultimate result of the disaffiliation process, but whether under ¶ 2553 and ¶ 248 the Plaintiffs are entitled to a church conference vote on disaffiliation. The Court finds that the Plaintiffs are substantially likely to succeed in that respect.

As to the fourth factor, whether granting the injunction disserves the public interest, this Court has not been pointed to, and cannot conceive of, any way in which the public interest would be disserved by giving Plaintiffs the opportunity to express their wishes as to disaffiliation from the UMC. Furthermore, this Court finds that Defendants have a duty under ¶ 2553 to assist Plaintiff Churches in their pursuit of the disaffiliation process.

Accordingly, this Court hereby enjoins and requires Defendants as follows:

1. Defendant District Superintendents, and all persons acting in concert with them, must immediately call a church conference for each of the Plaintiff Churches and preside

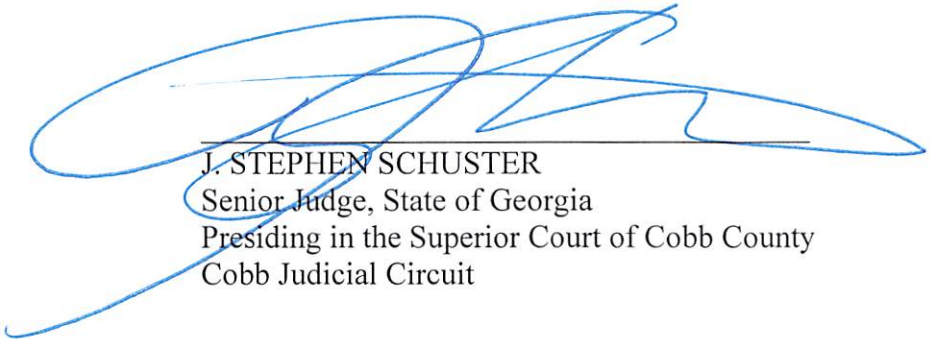
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therein or appoint an elder for that purpose;

2. Defendant District Superintendents must call and conduct these conferences in sufficient time for Defendant Trustees and Plaintiffs to execute the requisite disaffiliation agreement and Defendant Conference to conduct the requisite vote on the Plaintiff Churches' application. The Defendant's pause has caused this time crisis and they must remedy it.

Finally, the Court reiterates its position that it cannot determine the results of a vote at any level in the disaffiliation process prescribed by the Book of Discipline. The Court does however find that the Plaintiffs seeking to disaffiliate under ¶ 2553 and ¶ 248 of the Book of Discipline are entitled to a church-level vote, to receive a valuation, and to bring the matter before the Annual Conference. The parties must respect the right to a "gracious exit."

So ordered this 19 day of May 2023, nunc pro tunc May 17, 2023.



J. STEPHEN SCHUSTER
Senior Judge, State of Georgia
Presiding in the Superior Court of Cobb County
Cobb Judicial Circuit

CERTIFICATE OF SERVICE

This is to certify that I have this day served the *foregoing order* in Civil Action Number **23102495** upon the parties in this matter by sending a true and correct copy by mail or by electronic means to the following:

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Edward Tarver etarver@enochtarver.com

This 19th day of May, 2023.



Brett E. Conway
Staff Attorney
Senior Judges
Superior Court of Cobb County