

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

THE TRUSTEES OF THE NORTH)	CIVIL ACTION FILE
GEORGIA CONFERENCE OF THE)	NUMBER: 21-1-06801-28
UNITED METHODIST CHURCH,)	
INC.,)	
)	
Petitioner,)	JURY TRIAL DEMANDED
vs.)	
)	
MT. BETHEL UNITED METHODIST)	
CHURCH, INC. d/b/a MT. BETHEL)	
UNITED METHODIST CHURCH,)	
)	
Respondent, Counterclaim)	
and Third-Party Plaintiff,)	
)	
vs.)	
)	
THE TRUSTEES OF THE NORTH)	
GEORGIA CONFERENCE, INC.;)	
THE NORTH GEORGIA)	
CONFERENCE OF THE UNITED)	
METHODIST CHURCH, INC.,)	
SUE HAUPERT-JOHNSON, BISHOP;))	
JESSICA E. TERRELL, DISTRICT)	
SUPERINTENDENT; JOHN DOE 1;)	
JOHN DOE 2; JOHN DOE 3; JOHN)	
DOE 4; JOHN DOE 5;)	
)	
Counterclaim and)	
Third-Party Defendants.)	

**MT. BETHEL’S MOTION FOR AN INTERLOCUTORY
INJUNCTION AND BRIEF IN SUPPORT**

COMES NOW Respondent Mt. Bethel United Methodist Church, Inc., d/b/a Mt. Bethel United Methodist Church (“Mt. Bethel”) and files this Motion and Brief in Support of its Motion for Interlocutory Injunction, showing the Court as follows:

INTRODUCTION REGARDING DISAFFILIATION

In essence:

- Mt. Bethel began a process that has a finite deadline;
- That process was delayed and subverted by Petitioner and Third-Party Defendants; and
- An **interlocutory injunction** is necessary to resume that process to avoid irreparable harm to Mt. Bethel.

In April 2021, by the unanimous vote of its 50-member Administrative Council, Mt. Bethel began a process to disaffiliate from The United Methodist Church (“the UMC”). Mt. Bethel availed itself of a process enacted in 2019 by the UMC’s General Conference. The next step in that process is a ‘church conference’—a membership-wide vote on disaffiliation that must be called by the North Georgia Conference of the UMC (the “NGC”). But, when Mt. Bethel requested the scheduling of this required disaffiliation vote, officers and agents of the North Georgia Conference (the “Regional UMC Administrators”), first stalled, and then held their own different vote—a vote purporting to instead close Mt. Bethel and seize control of its tens of millions of dollars of property and assets.

The NGC is a regional administrative body of the global UMC. It administers approximately 800 member-churches—of which Mt. Bethel is the largest. Contrary to and, in fact, nullifying the Regional UMC Administrators’ attempted hostile takeover of Mt. Bethel in retaliation for seeking to disaffiliate, the disaffiliation process, codified by the UMC General Conference as ¶2553 of the UMC Book of Discipline, explicitly provides that “a disaffiliating local church **shall have the right** to retain

its . . . property.”

The Regional UMC Administrators’ actions are in plain violation of the UMC Book of Discipline and are an illegitimate attempt to seize a local church’s property and assets. The irony of this, is that the Regional UMC Administrators rely upon comparatively inconsequential and entirely refuted allegations that Mt. Bethel acted contrary to the Book of Discipline as their basis for declaring, under ¶2549 of the Book of Discipline, that “exigent circumstances” exist requiring that Mt. Bethel be closed and its assets taken over by the NGC.

Just as astounding, the Regional UMC Administrators are here attempting to retaliate against Mt. Bethel’s disaffiliation request by use of a procedure that the 2019 General Conference of the UMC specifically ruled out when it enacted ¶2553. That procedure, proposed in draft disaffiliation legislation rejected by the 2019 General Conference, would have allowed regional conference administrators to conduct an inquiry under ¶2549 and recommend the closure of a disaffiliating local church. Thus, the Regional UMC Administrators are attempting to invoke a process here that the 2019 General Conference deliberately excluded from applying to a disaffiliating local church. Simply, ¶2549 is leverage that the Regional UMC Administrators do not have to punish or threaten disaffiliating local churches through closure and seizure of their property.¹

¹ The specific argument made for removing the ¶2549 review process from the ¶2553 rule, was that it inappropriately offered a “**blank check**” for regional conferences to “**add additional requirements to the departing local churches**” and cause fear over “**misuse[s] of power.**” See Ex. 24 to Mt. Bethel’s Verified Answer and Counterclaims (emphasis added).

For those reasons, Mt. Bethel expects to prevail on the merits of Petitioner Trustees' claims. However, interlocutory relief is necessary during the pendency of this litigation to prevent delay and irreparable harm caused by the Regional UMC Administrators' actions from depriving Mt. Bethel of the right to disaffiliate from the UMC and keep its property. That is because ¶2553 provides a finite window within which local churches must complete the ¶2553 process in order to disaffiliate.² If Mt. Bethel cannot take the next steps in disaffiliation—the church-wide membership vote and computation of their disaffiliation “buyout”—in a reasonably timely manner, then its opportunity to take advantage of ¶2553 to disaffiliate may vanish during this lawsuit.

The Court must consider a four-factor test for granting an interlocutory injunction:³

First, whether there is a substantial threat of irreparable injury to the moving party;

- Here, interference with and delay of Mt. Bethel's disaffiliation vote risks irreparable injury because there is a deadline for completing the ¶2553 process.

Second, whether the threatened injury to the moving party outweighs the threatened harm that the injunction may do to the party being enjoined;

- Here, there is no harm to the North Georgia Conference if the next steps in Mt. Bethel's disaffiliation (a church-wide vote, and accounting calculations) are taken during the pendency of this

² See Ex. 4 to Mt. Bethel's Verified Answer and Counterclaims (“The provisions of ¶ 2553 expire on December 31, 2023 and shall not be used after that date.”).

³ See City of Waycross v. Pierce Cty. Bd. of Commissioners, 300 Ga. 109, 111 (2016).

litigation. The status quo is maintained and the primary asset is not dissipated.

Third, whether there is a substantial likelihood that the moving party will prevail on the merits;

- Here, Mt. Bethel is likely to prevail in this litigation because the Court can neutrally apply the UMC Book of Discipline, which provides that “a disaffiliating local church **shall have the right** to retain its . . . property.”

Fourth, whether granting the interlocutory injunction will not disserve the public interest;

- Here, the public interest is affirmatively served by allowing the Mt. Bethel congregation to exercise the vote on disaffiliation which the UMC Book of Discipline requires; and doing so maintains the status quo and may usefully inform all parties to this litigation going forward.

As each factor favors the issuance of an interlocutory injunction, this Motion should be granted and a church conference vote on disaffiliation be ordered by the Court to be conducted within a period of time the Court deems reasonable.

BACKGROUND

Mt. Bethel is a 10,000-member UMC church. The UMC is a mainline Protestant denomination organized into hierarchical conferences. The highest-level conference is the UMC General Conference, which meets every four years to set policy for the UMC. The General Conference is the only body that may speak officially for the UMC (aside from the Judicial Council – its ‘Supreme Court’). Below the General Conference are regional conferences (sometimes called ‘annual conferences’), such as the North Georgia Conference (the “NGC”), of which Mt. Bethel is a member.

Like other Christian denominations, the UMC is undergoing a period of transition as a result of decades-evolving rifts between traditionalist and progressive

member-churches. Recognizing the inevitability of a church split along these lines, and seeking to avoid painful and costly property dispute litigation that has plagued other Christian denominations, a special session of the UMC General Conference met in 2019 and enacted a process for local churches to amicably disaffiliate from the UMC.⁴ That process was codified as ¶2553 of the UMC’s Book of Discipline—the UMC’s governing charter—and ¶2553 allows local churches to disaffiliate and keep their property free and clear of the trust provision of the Book of Discipline if there is:

- (i) a 2/3 majority vote in support of disaffiliation at a local church conference;
- (ii) financial compensation to the NGC (including the local church’s proportional share of unfunded pension liabilities and an advance payment of 12 months of apportionments); and
- (iii) ratification by a majority vote of the NGC Annual Conference.

On April 14, 2021, Mt. Bethel’s 50-person Administrative Council, by unanimous vote, passed a resolution to invoke ¶2553 and disaffiliate from the UMC. Mt. Bethel then requested that the Regional UMC Administrators schedule the necessary church-wide vote.⁵

⁴ See Ex. 24 to Mt. Bethel’s Verified Answer and Counterclaims (Comments of Rev. Beth Ann Cook, 2019 Special Session delegate arguing in support of the disaffiliation legislation that “[t]he Episcopal Church **wasted over \$60 million on legal battles** but the toll on hearts and minds was much higher.”).

⁵ Several weeks prior to this, Mt. Bethel had also sought the necessary financial information from the NGC, but was told that it was “premature” to request such calculation. Following that “premature” request for a disaffiliation dollar amount, the Bishop abruptly, and without required consultation, re-appointed Mt. Bethel’s

Receiving Mt. Bethel’s request for a church conference, the Regional UMC Administrators first responded by advising Mt. Bethel that any vote to disaffiliate would be delayed for at least a year.⁶ Then, after Mt. Bethel continued to urge that a church conference be called without unnecessary delay, the Regional UMC Administrators took steps purporting to close Mt. Bethel and seize its assets. The Regional UMC Administrators then brought this lawsuit for declaratory and injunctive relief in the name of the Trustees of the North Georgia Conference to ask that this Court ratify that takeover.

The attempted closure and seizure of Mt. Bethel’s assets, according to the Regional UMC Administrators, took place as a result of the Bishop declaring, pursuant to ¶2549 of the Book of Discipline, that there existed “exigent circumstances” making it necessary that they do so to protect the property for the denomination. (See Ex. 23 to Mt. Bethel’s Verified Answer and Counterclaims.)

Enacting ¶2553 though, with its explicit protection that “a disaffiliating local church **shall have the right** to retain its . . . property[,]” the 2019 General Conference stripped from the proposed legislation language that would allow a district superintendent to conduct a ¶2549 inquiry and recommend the closure of a

Lead Pastor, Rev. Dr. Jody Ray, to a staff position within the NGC, removing him as Pastor of Mt. Bethel. (See ¶ 38 of Mt. Bethel’s Verified Counterclaim.)

⁶ See April 21, 2021 correspondence from the District Superintendent of the North Georgia Conference, Ex. 16 to Mt. Bethel’s Verified Answer and Counterclaims (“I will make note of the request of Mt. Bethel I will most likely call a Church Conference to be held in early Spring of 2022.”).

disaffiliating local church.⁷ Proponents of removing this ‘¶2549 veto’ from the disaffiliation process, successfully argued that it could be seen as a “blank check” for regional conferences to inappropriately “add additional requirements to the departing local churches” and cause fear over “misuse[s] of power.”⁸ Thus, by relying upon ¶2549 as the basis to close Mt Bethel and seize its property, the Regional UMC Administrators are attempting to abuse power that was deliberately (and presciently!) withheld from them by the 2019 General Conference.

Local churches seeking to disaffiliate from the UMC through ¶2553 must complete that process by December 31, 2023. An interlocutory injunction from this Court is necessary to compel the Regional UMC Administrators to first, provide Mt. Bethel with the amounts it will be required to pay upon disaffiliation; and then, to compel the Regional UMC Administrators to allow Mt. Bethel to conduct the church conference disaffiliation vote without unreasonable or injurious delay.

⁷ See Ex. 9 to Mt. Bethel’s Verified Answer and Counterclaims (copy of the original [draft] Petition 90066, reciting in its third subpart the ¶2549 review process provision that was removed prior to the [final] enactment of ¶2553).

⁸ See Ex. 24 to Mt. Bethel’s Verified Answer and Counterclaims (transcript of Rev. Beth Ann Cook’s comments, and the proceedings leading up to the vote on Petition 90066, as officially recorded).

ARGUMENT AND CITATION OF AUTHORITY

A. Interlocutory Injunctions Are Available to Prevent “Irreparable Injury.”

“A trial court may grant an interlocutory injunction to maintain the status quo until a final hearing if, by balancing the relative equities of the parties, it would appear that the equities favor the party seeking the injunction.” Garden Hills Civic Ass’n, Inc. v. Metropolitan Atlanta Rapid Transit Authority, 273 Ga. 280, 280 (2000) (citation omitted).

Furthermore, the Court can, in equity, issue an interlocutory injunction that requires a party to take affirmative steps in order to prevent the moving party from suffering irreparable injury. See Davis v. VCP S., LLC, 297 Ga. 616, 623 (2015) (affirming contempt order sanctioning party for violating “interlocutory injunction requiring [defendant] to take affirmative action[.]”).

B. Mt. Bethel Satisfies Each Factor for an Interlocutory Injunction.

Georgia’s Supreme Court recognizes a four-factor test for an interlocutory injunction:

- (1) “there is a substantial threat that the moving party will suffer irreparable injury if the injunction is not granted;”
- (2) “the threatened injury to the moving party outweighs the threatened harm that the injunction may do to the party being enjoined;”
- (3) “there is a substantial likelihood that the moving party will prevail on the merits of her claims at trial; and”
- (4) “granting the interlocutory injunction will not disserve the public interest.”

City of Waycross v. Pierce Cty. Bd. of Commissioners, 300 Ga. 109, 111 (2016). Of these factors, the “substantial threat of irreparable injury if an interlocutory injunction is not entered—is the most important one, given that the main purpose of an interlocutory injunction is to preserve the status quo temporarily to allow the parties and the court time to try the case in an orderly manner.” Id.

1. Mt. Bethel Faces Irreparable Injury if a Disaffiliation Vote is Unreasonably Delayed.

¶2553 of the UMC Book of Discipline provides local UMC churches with a time-limited window within which to disaffiliate from the UMC and keep their property. Thus, implicit in ¶2553 is the right of a local church to timely vote to move forward with disaffiliation. Furthermore, in order for a disaffiliating local church to meet ¶2553’s deadline for completion, an Annual Conference ratification vote is also required, but those future Annual Conference sessions will only take place in the summer of 2022 and the summer of 2023. All prior steps to disaffiliation—including the most critical next step, a church conference vote on disaffiliation—must be completed in advance of those conferences. (While these dates may seem distant, it is worth noting that the 2020 General Conference has yet to occur as a result of the Covid-19 pandemic.)

The potentially years-long pendency of this litigation or any appeal, not only invites mischief if a vote is delayed for an extended period of time, but also presents the very real possibility of ¶2553 no longer being available to Mt. Bethel, even after it prevails in this lawsuit. Thus, to ameliorate the risk that the right Mt. Bethel now has—disaffiliation with its assets intact—does not vanish during this litigation, an

interlocutory injunction is necessary to keep the disaffiliation process moving forward by enjoining any unreasonable delay.

2. The Interlocutory Injunction Does No Harm to the Regional UMC Administrators.

An interlocutory injunction that enjoins the Regional UMC Administrators from unreasonably delaying Mt. Bethel's church conference to have its required ¶2553 disaffiliation vote would cause no harm to the enjoined Regional UMC Administrators. Providing the necessary financial information to Mt. Bethel and allowing its members to vote on disaffiliation also does nothing to change the status quo; instead, it simply mollifies the potential injury to Mt. Bethel caused by delay. As provided for by ¶2553, it would still remain that the Annual Conference must ratify Mt. Bethel's disaffiliation; meaning that the rights and remedies of all parties to this litigation would be the same after the vote as they were before the vote.

3. Mt. Bethel is Likely to Prevail on the Merits.

The Supreme Court of Georgia has made clear that it “**is not pre-ordained**” what the result will be of a property dispute between a local congregation and the general church in the event of a schism. Rector v. Bishop of the Episcopal Diocese of Ga., Inc., 290 Ga. 95, 117 (2011) (emphasis added). Rather, it, “depends on the title instruments, applicable statutes, and general and local **church governing documents** at issue in the particular case.” Id. (emphasis added). Thus, this Court must take all of these factors into consideration and, applying “neutral principles of law,” determine:

the intentions of the parties at the local and national level regarding beneficial ownership of the property at issue as **expressed before the dispute erupted in a legally cognizable form.**

Id. (emphasis added). And while the Court is to avoid engaging in doctrinal questions, “[t]he neutral-principles method, at least as it has evolved in Georgia, **requires** a civil court to examine certain religious documents, such as a church constitution[.]” Rector v. Bishop of the Episcopal Diocese of Ga., Inc., at 103 (quoting Jones v. Wolf, 443 U.S. at 604) (emphasis added).

The *outcome* in Rector v. Bishop of the Episcopal Diocese of Ga was that the general church prevailed over the local congregation in the disposition of the local church’s property. However, this outcome was not a “pre-ordained” result of a legal standard that favors a powerful general church over a local church. Rather, an analysis of all governing church documents showed there, that there was a trust in favor of the general Episcopal Church that existed *prior* to the dispute. That trust was not found in the recorded instruments of ownership; but instead, was construed in reading church canons.

The facts in Rector are in stark contrast to the instant case where ¶2553 was adopted in 2019—memorializing the last stated intention of these parties before “th[is] dispute erupted in a legally cognizable form”—to mandate that “a disaffiliating local church **shall have the right** to retain its real and personal, tangible and intangible property.” (Emphasis added.) Although the Book of Discipline provides for an express trust on local church property in favor of the UMC, (see ¶2501) that same provision of the Book of Discipline provides that church property may be

“released” or “transferred free of the trust” where authority to do so is given by the Book of Discipline. Id.⁹ With ¶2553, the General Conference’s most recent enactment regarding the trust clause and local church property, it was clearly intended that disaffiliation would now authorize a “release” or “transfer free of the trust.” As such, Mt. Bethel is likely to prevail on the merits of Petitioner Trustees’ claim insofar as the Trustees rely upon ¶2549, a Book of Discipline provision materially superseded by ¶2553.

4. **The Interlocutory Injunction Does Not Disserve the Public Interest**

An interlocutory injunction that maintains the status quo by allowing Mt. Bethel to take necessary steps to move forward with the disaffiliation process during the pendency of this litigation affirmatively serves the public interest. One reason is that knowing the outcome of such a vote will lend greater certainty to the Mt. Bethel community. That includes not just to the church and its members, but also its ongoing ministries, local and worldwide. One such ministry is the Mt. Bethel Christian Academy (the “MBCA”), a K-12 school which shares a traditional theology, property, and facilities with Mt. Bethel.

⁹ See Ex. 1 to Verified Answer and Counterclaims (containing BOD ¶2501.2):

The trust is and always has been irrevocable, except as provided in the *Discipline*. **Property can be released from the trust**, transferred free of trust or subordinated to the interests of creditors and other third parties only **to the extent authority is given by the *Discipline***.

(Emphasis added.)

Making clear that delay in allowing Mt. Bethel to timely move forward with a disaffiliation vote is harmful to the interests of MBCA and its students, in April 2021, even before this litigation was initiated, the Chair of MBCA's Board of Trustees warned Bishop Sue Hauptert-Johnson that:

We also understand that the Church has petitioned for disaffiliation under the Book of Discipline. **An orderly and prompt resolution of these issues and the petition are necessary to prevent irreparable harm to the Academy.**

(See Exhibit B to Ex. 7 of the Verified Answer and Counterclaims) (emphasis added).

Allowing a vote to Mt. Bethel to determine the theological camp with which it will be associated in the future is also important to the families of hundreds of students attending MBCA as they make future enrollment decisions. Nor will any disservice to the public arise from holding the UMC Regional Administrators to commitments in the Book of Discipline providing for such vote.

Moreover, for this fourth factor, Mt. Bethel's congregants are members of the public whose interests should also be considered. See Aliera Healthcare, Inc. v. Anabaptist Healthshare, 355 Ga. App. 381, 392 (2020) (affirming interlocutory injunction where "the trial court found that an interlocutory injunction is in the members' interest, and thus the public interest."). Contrary to the public policy against takings without due process,¹⁰ the members of Mt. Bethel have a right that may be involuntarily forfeited by the passage of time if an interlocutory injunction is

¹⁰ See, e.g., Unified Gov't v. Stiles Apartments, Inc., 290 Ga. 740, 742 (2012) ("[D]epriving a private entity of its property without the due process of law can rarely, if ever, be in the public interest.").

not entered. In other circumstances it could be that a deadline to act upon a right could be equitably tolled by the Court—but it is not clear that such equity would be within the authority of this Court in this matter.

CONCLUSION

Each relevant factor favoring the issuance of an interlocutory injunction being present, this Motion should be granted and a church conference vote on disaffiliation for Mt. Bethel be ordered by the Court to be conducted within a period of time the Court deems reasonable.

This 8th day of October, 2021.

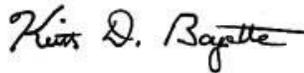
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CERTIFICATE OF SERVICE

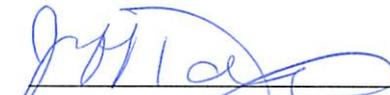
This is to certify that I have served a copy of the foregoing MOTION AND BRIEF FOR INTERLOCUTORY INJUNCTION upon the following by electronically filing same with the Court via Peachcourt, which will automatically send e-mail notification of such filing to the following attorneys of record:

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This 8th day of October, 2021.

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