

Clerk of the  
Circuit Court

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IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

PR GEO CO MD #78

RODERICK CHAVEZ, et al.,	)	
	)	
Plaintiffs,	)	<b>CAL 12-3774</b>
	)	
v.	)	
JERICO BAPTIST CHURCH	)	
MINISTRIES, INC., et al.,	)	
Defendants.	)	

**PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION  
TO DEFENDANTS' MOTION TO DISMISS AND  
MOTION FOR SUMMARY JUDGMENT**

I. INTRODUCTION

On or about February 16, 2012<sup>1</sup>, Plaintiffs filed a complaint seeking to enforce their rights as long-term members of Defendant Jericho Baptist Church Ministries, Inc. ("Jericho") to gain access to the church record book, pursuant to § 5-307(a)(2) of the Maryland Special Corporations Article. Between April 12, 2012, and about May 16, 2012, Plaintiffs filed for default judgment against Defendants. On or about April 18, 2012, Defendants attempted to unilaterally revoke the membership of all Plaintiffs. On June 1, 2012, Defendants filed for dismissal of the legal action or in the alternative summary judgment.

II. MATERIAL FACTS IN DISPUTE

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<sup>1</sup>In their motion for dismissal and summary judgment, Defendants incorrectly state that the complaint was filed on March 1, 2012.

- A. On or about November 8, 2011, more that one hundred forty (140) members of Jericho, including Plaintiffs, requested in writing that Jericho and the Board permit them to inspect the church record book and that it be presented before a public meeting of the members of the congregation. Defendants refused to honor this lawful request. This fact is material because at that point the Defendants had a statutory obligation to make the record book available but refused. *See Exhibit 1.*
- B. Plaintiffs dispute Defendants' contention that Section 2.15 of the Jericho bylaws was properly adopted pursuant to the laws of the State of Maryland and pursuant to the Jericho Charter (December 15, 2010). *See Exhibit 2.* Moreover, Defendants' Articles of Incorporation dated (December 15, 2010) specifically state that the purpose of the Church is to adopt By-Laws, rules and regulations in accordance with applicable law in order to provide for the accomplishment purposes of the Church. *See Exhibit 3.* This fact is material because Defendants have used Section 2.15 of the current Jericho bylaws to revoke the membership of the five Plaintiffs in this action to defeat Plaintiffs' standing to bring this action.
- C. Plaintiffs dispute Defendants' contention that Defendants have the right to revoke the membership of any person arbitrarily, without notice and an opportunity to be heard. This fact is material because after this legal action was filed, Defendants notified two Plaintiffs that their membership in the church was revoked. *See Exhibit 3.* The timing of the revocation, the absence of notice, the absence of specific reasons, the denial of the

right to be heard violates the core principles of the Maryland Corporations Article that adult members of a church have the right to form and govern their religious institutions. This fact is material because according to the Jericho Charter (December 15, 2010), voting rights for any and all matters regarding or affecting the governance or operation of the Church are pursuant to Title 5, Subchapter 3 of the Corporations and Associations Article of the Maryland Code. *See Exhibit 4.*

- D. Plaintiffs dispute Defendants' contention that a board of trustees of a Baptist church has the right to revoke church membership under Maryland law. *See Exhibit 3.*
- E. Plaintiffs dispute the contention by Defendants that the board of a Baptist church can take control of a church without ever being voted in by the members of the church and then deny the members any right to any voice in the selection of successor trustees under Maryland law. *See Exhibit 3.*
- F. Plaintiffs dispute Defendants' contention that the current unelected members of the Board have the legal authority to dismiss the pastor without any input from the members. *See Exhibit 3.*
- G. Plaintiffs dispute Defendants' contention that the unelected Board has the authority to reserves voting authority to itself and deny all voting authority to all other members of the church. *See Exhibit 3.*
- H. Plaintiffs dispute Defendants' contention that the current bylaws are consistent with the Jericho Articles of Incorporation. *See Exhibit 3.*

### III. SUMMARY OF ARGUMENT

1. Dismissal is not warranted because Plaintiffs have averred a prima facie case of violation of Section 5-307(a)(2) of the Maryland Special Corporations Article. Assuming the Plaintiffs are members of the church, they are entitled to access the church record book.
2. Summary Judgment is not appropriate because there are genuine issues of material fact and because there has been no discovery, it is premature to conclude that Defendants are entitled to judgment as a matter of law.
3. Under Maryland law, trustees of a church cannot treat church property as their private sole preserve. Trustees that control the property and the doctrine of a church violate the core principles of congregational polity established in Maryland religious law.

### IV. ARGUMENT

#### A. There is No Basis for Dismissal of This Action

The Court must assume the truth of all well-pleaded facts and the inferences that can be drawn in ruling on a motion to dismiss. *Bennet Heating & Air Conditioning, Inc. v. NationsBank*, 103 Md. App. 749, 654 A.2d 949 (1995). *Lubore v. RPM Assoc.*, 109 Md. App. 312, 674 A.2d 547 (1996). The Court is not permitted to make findings of fact. *Morris v. Osmose Wood Preserving*, 99 Md. App. 646, 639 A.2d 147 (1994). Thus, the Court is required to presume that Plaintiffs are members of Jericho. The Court is required to presume that Jericho

is a church organized under the annotated code of the State of Maryland. The Court must presume that Plaintiffs properly requested to review the Jericho record book.

Section 5-307(a)(2) of the Maryland Special Corporations Article confers upon church members the right to inspect the church record book. The members have stated in their complaint that they have been denied access to the record book after a written request was submitted to the board.

B. Defendants Are Not Entitled to Summary Judgement

Summary judgment is not appropriate when there are genuine disputes about material facts and the moving party is not entitled to judgment as a matter of law. Rule 2-501. *Whitcomb v. Horman*, 244 Md. 431, 224 A.2d 120(1966). Plaintiffs have identified material facts that are in dispute. *See* Section II above. These facts cannot be resolved at the summary judgment level. *White v. Friel*, 210 Md. 274, 123 A.2d 303 (1956). The Court is required to resolve all inferences against the party that is seeking summary judgment. *Poffenberger v. Risser*, 290 Md. 631, 431 A.2d 677 (1981).

In this case, Plaintiffs and Defendants dispute the authority of the board to make decisions as to who is qualified to be a member. In *Evans v. Shiloh Baptist Church*, 96 Md. 543, 77 A. 2d 160 (1950). The Court of Appeals stated it had been held that membership is an ecclesiastical matter, as to which the courts will not review the action of the ecclesiastical authorities. *Watson v. Jones*, 13 Wall. 679, 730, 20 L.Ed. 666; *Brayshaw v. Ridout*, 79 Md. 454, 456-457, 29 A. 515. Maryland courts, like courts generally in this country, have no authority to

resolve religious disputes. *Polen v. Cox*, 259 Md. 25, 31-32, 267 A.2d 201, 204-05 (1970). See *Presbyterian Church in United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 89 S.C. 601, 21 L.Ed.2d 658 (1969). Indeed, in regard to the spiritual or doctrinal affairs of a church or denomination, the Maryland courts must not interfere. "Such matters `must be left with the authorities of the church or denomination who have the power, by custom and usages of the ecclesiastical organization, to consider and determine upon them.'" *Id.*, (quoting *Schaefer v. Kleve*, 100 Md. 264, 271, 59 A. 850, 852 (1905)). *Mt. Olive v. Board of Incorporators*, 348 Md. 299, 703 A. 2d 194 (1997).

The trustees are not the intended beneficiaries of church property. Under Maryland law, the property of a charitable or religious nonprofit corporation is held in trust. See *Inasmuch Gospel Mission, Inc. v. Mercantile Trust Co.*, 184 Md. 231, 239, 40 A.2d 506, 510 (1945). Indeed, the property of a local church is held in trust by the religious nonprofit corporation for the benefit of the local church congregation, *Mt. Olive*, 348 Md. at 314, 703 A.2d at 201, and cases therein cited at n. 10, unless the control of that property is modified by contract, express or implied. *Id.* at 316-17, 703 A.2d at 202-03. See *Watson v. Jones*, 80 U.S. at 720, 20 L.Ed. at 673 (holding that "trustees obviously hold possession for the use of the persons who by the constitution, usages and laws of the [church], are entitled to that use").

The Board of Jericho has denuded the rights of the congregation and the pastor to have any involvement in the property or the ecclesiastical governance of Jericho. This is repugnant to Maryland law. Powers granted to trustees apply only to management of property, no authority

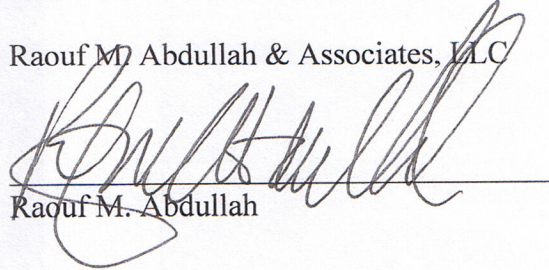
being given over matters of doctrine or discipline. *Jenkins v. New Shiloh Baptist Church*, 196 Md. 543, 56 A. 2d 788 (1950). In Jericho, the board has assumed all the power and all of the benefits; the board even decides its own continuance in office.

V. CONCLUSION

For the foregoing reasons, the Motion to Dismiss and the Motion for Summary Judgment should be denied.

Respectfully submitted,

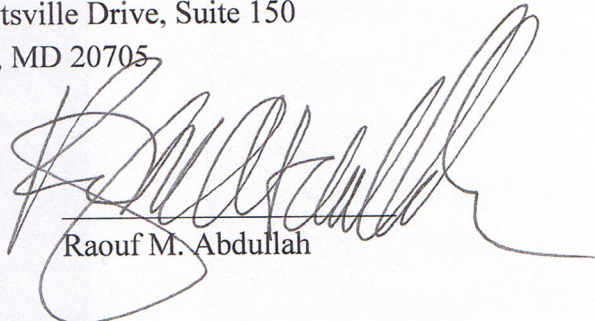
Raouf M. Abdullah & Associates, LLC

By   
Raouf M. Abdullah

CERTIFICATE OF SERVICE

I hereby certify that on June 19, 2012, I placed a copy of the above matter in the United States First Class Mail, postage prepaid to:

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