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IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT  
ADAMS COUNTY, ILLINOIS

Diocese of Quincy, )  
Plaintiff, )

vs. )

Case No. 09-MR-31

The Episcopal Church, et.al., )  
Defendants. )

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The Episcopal Church, )  
Counterclaimant, )

Vs. )

Edward A. Den Blaauwen et.al., )  
Counterdefendants, )

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The Diocese of Quincy of the )  
Episcopal Church, )  
Counterclaimant in Intervention, )

Vs. )

Edward A. Den Blaauwen et.al., )  
Counderdefendants. )

**FILED**

DEC 16 2011

*Randy C. [Signature]*  
Clerk Circuit Court 8th Judicial Circuit  
ILLINOIS, ADAMS CO.

**OPINION AND ORDER**

This matter is before the court on the Revised Motion for Summary Judgment filed by the Counterclaimants, The Episcopal Church (herein “TEC” and the Diocese of Quincy of the Episcopal Church (herein “TEC Diocese.” TEC and TEC Diocese seek judgment on their counterclaim and also on the original Complaint of the Plaintiffs, the Diocese of Quincy, a not-for-profit corporation, and the Trustees of the Funds and Property of the Diocese of Quincy and named individual counter defendants affiliated with the Plaintiffs (herein “Plaintiffs/Counterdefendants”).

The court has considered the pleadings, voluminous affidavits and documentary evidence presented and memoranda and authorities submitted by the parties and the oral arguments presented on November 14, 2011.

The principles and standards governing the granting of summary judgment are well established. It is a drastic means of disposing of litigation and therefore it must be clear that the moving party is truly entitled to such remedy. (Hall v. Flowers (2003), 798 N.E.2d 757). The evidence must be viewed in the light most favorable to the nonmovant in determining whether a genuine issue of fact exists. Even if the facts are undisputed, if reasonable persons could draw different inferences from those facts summary judgment is inappropriate. (McDonald's Operators Risk Management v. CoreSource Inc. (1999), 307 Ill.App.3d187).

TEC and TEC Diocese argue that as a matter of law the court must find that TEC is conclusively a hierarchical institution and that Diocese of Quincy is subordinate and submits to its highest ecclesiastical authority. It further argues that the issues presented in this lawsuit are solely related to the polity and governance of the subordinate institutions, namely the Diocese of Quincy, which under the authorities and cases relied upon prohibit this court from considering.

Plaintiffs/Counterdefendants respond that there are disputed issues of fact regarding the hierarchical structure of TEC and in particular the relationship between the national church and the dioceses. They further contend that the real dispute does not involve ecclesiastical questions of doctrine or polity, but rather control of the property of the not-for-profit corporate entities (the Plaintiffs).

The documentary evidence relied upon by TEC and TEC Diocese is certainly supportive of their position. However, confirmation and proof of their construction and interpretation of the church Constitution and canons and its supremacy necessarily involves inferences to be drawn from the evidence. The inferences they ask the court to draw are reasonable.

Nevertheless, Plaintiffs/counterdefendants, contend that contrary inferences can reasonably be drawn from the same undisputed documents and facts, as detailed in their briefs and oral argument. Viewing the evidence as it must, in the light most favorable to the Plaintiffs/counterdefendants, the court finds that reasonable persons could

draw different inferences from the undisputed facts. This is further the case considering, that to varying degrees, all of the parties have introduced and rely on historical documents and conduct between the national or general church and the diocese.

Plaintiffs/counterdefendants further argue that the affidavits submitted in their response raise issues of fact on this record. TEC and TEC Diocese dismissively counter that their affidavits represent merely the opinion of one man or the opinions of a minority, dissenting faction of church Bishops. No motions were filed directed to the admission of the affidavits. Essentially TEC and TEC Diocese ask the court to discount or give this evidence no weight in ruling on their motion. Weighing of evidence is generally improper in a summary judgment proceeding. (See, In re Estate of Alfaro (1998), 301 Ill.App.3d 500; Schulenburg v. Rexnord Inc. (1993), 254 Ill.App.3d 445). Without weighing this evidence, they do raise genuine issues of material fact as to the precise nature of the relationship between the diocese and the general or national church and hence the validity of the actions which are at the heart of this dispute.

TEC and TEC Diocese's cite numerous cases, involving similar church, property disputes, which they assert mandate acceptance of their position in this case and granting of their motion for summary judgment. The court has reviewed the cases, but does not find it is bound by them. Further it finds the cases distinguishable on different levels and does not find them conclusively persuasive as to the record before it. For example, the vast majority of the cases involve disputes between local parishes and dioceses and/or the national church. These cases appear very fact driven and many involved concessions or stipulations as to matters which are disputed on this record. Many involve specific religious corporation and/or other state statutes not applicable in the present case.

In summary, although the evidence of the hierarchical character of TEC is substantial, factual issues exist on the present record, which preclude the granting of the motion for summary judgment.

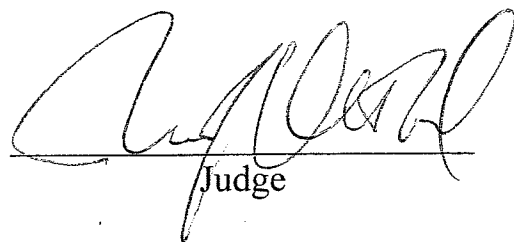
Finally, even if ultimately it is determined that TEC is hierarchical and the Diocese of Quincy a subordinate, dependent constituency and whose leadership is an ecclesiastical issue to which this court must defer, that would not entirely resolve the dispute. The circumstance of the hierarchical structure of government of a church does not preclude a civil court decision

respecting a property dispute even under Watson v. Jones (1872), 80 U.S.679, 20 L.Ed. 666, provided the decision can be made without intrusion into the ecclesiastical domain. (York v. First Presbyterian Church of Anna (1984), 130 Ill.App.3d 611).

The court finds that the “neutral principles of law” standard sanctioned by Jones v. Wolf (1979), 443 U.S. 595, 99 S.Ct. 3020, 61 L.Ed.2d 775, has been adopted in Illinois and is applicable to the present case. (York v. First Presbyterian Church of Anna (1984), 130 Ill.App.3d 611; Aglikin v. Kovacheff (1987), 163 Ill.App.3d 426). TEC and TEC Diocese would have the court end the inquiry regarding this dispute by deferring to the ecclesiastical issue of the determination of the leadership of the diocese (assuming its subordinate status to the hierarchical General Convention). However, as in York, that would not necessarily resolve the question of whether the property, held by the Diocese and the Trustees in this case, was subject to a clear right to denominational appropriation by the national church. That appears to the court to be the very heart of the disputed factual issues presented by this record as described above, namely, who as between the competing parties is entitled to control and possession of the assets.

For the foregoing reasons summary judgment is inappropriate at this stage and on this record and is, therefore, denied.

Entered: December 16, 2011



Judge

Cc: K. Schnack  
T. Brenner  
T. Ewing  
H. Anderson