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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4583-15T2

TRUSTEES OF THE ALPINE
METHODIST EPISCOPAL CHURCH
d/b/a ALPINE COMMUNITY CHURCH,

Plaintiff-Appellant,

v.

NEW JERSEY UNITED METHODIST
CHURCH, THE UNITED METHODIST
CHURCH OF GREATER NEW JERSEY,
THE UNITED METHODIST CHURCH,
REVEREND WAYNE PLUMSTEAD, and
REVEREND HAE JONG KIM,

Defendants-Respondents.

Argued November 28, 2017 – Decided December 19, 2017

Before Judges Carroll, Leone and Mawla.

On appeal from Superior Court of New Jersey,
Law Division, Bergen County, Docket No.
L-6123-14.

John J. Clark, IV argued the cause for
appellant (Ameri & Associates, LLC, attorneys;
Nima Ameri, on the brief).

Fredric L. Shenkman argued the cause for
respondents New Jersey United Methodist
Church, The United Methodist Church of Greater
New Jersey, The United Methodist Church, and

Reverend Wayne Plumstead (Cooper Levenson, PA, attorneys; Fredric L. Shenkman and Roger Lai, on the brief).

Edward S. Kiel argued the cause for respondent Reverend Hae Jong Kim (Cole Schotz, PC, attorneys; Edward S. Kiel and Eric S. Latzer, on the brief).

PER CURIAM

Plaintiff, Trustees of the Alpine Methodist Episcopal Church, d/b/a Alpine Community Church, appeals from a September 22, 2015 order dismissing its complaint against defendant, Reverend Hae Jong Kim (Reverend Kim), and a November 20, 2015 order denying its motion for reconsideration. In dismissing the complaint against Reverend Kim pursuant to Rule 4:6-2(e), the trial court determined it lacked subject matter jurisdiction over ecclesiastical matters that were previously decided by the United Methodist Church's (UMC) hierarchical order pursuant to its doctrine and polity.

Plaintiff also appeals from an October 28, 2016 amended order granting summary judgment to defendants Greater New Jersey Annual Conference of the United Methodist Church (GNJUMC) and Reverend Wayne Plumstead (Reverend Plumstead) (collectively referred to as the UMC defendants). Among other things, the summary judgment order declared the Alpine Community Church (the Church) to be a member of and subject to the governance of the GNJUMC and The Book of Discipline (The Discipline), and consequently the Church's

personal and real property was held in trust for the benefit of the GNJUMC as the owner of the property. The summary judgment order required plaintiff to deliver the keys to the Church's real property, and records relating to its personal property and bank accounts, to the GNJUMC, and to account for the Church's financial activities within thirty days.

Plaintiff challenges the trial court's conclusion that it lacked subject matter jurisdiction to adjudicate ecclesiastical issues related to its claims against Reverend Kim. Plaintiff further challenges the trial court's legal analysis and ultimate determination that the Church is subject to the hierarchical authority of the UMC and that all Church property is held in trust for the GNJUMC.

We have considered these arguments in light of the record and applicable legal standards, and we affirm substantially for the reasons expressed by Judge Robert C. Wilson in his thoughtful written opinions.

I.

The Methodist Movement dates back to the 1720s in England. In December 1784, preachers of the Methodist Movement met at a conference in Baltimore, Maryland, and officially organized the Methodist Movement in the United States. All existing churches and those to be established were to be formally known as "Methodist

Episcopal" churches. In 1785, the Methodist Episcopal churches published The Discipline as the law governing all Methodist Movement entities. Although new denominations thereafter emerged, in 1939, they reunited and became known as the Methodist Church. In 1968, the Methodist Church joined with the Evangelical United Brethren Church to form the UMC.

The UMC is a "connectional" system of local churches that are linked to an interconnected network of organizations. Conferences within the system possess decision-making authority. At the top of the hierarchy is the General Conference, which meets every four years and sets official policy. Below it is the Annual Conference, consisting of representatives elected by each local church's annual Charge Conference, followed by the Charge Conference.

The UMC does not have a central headquarters or a single executive leader. The hierarchical leaders of the UMC are bishops who lead conferences, district superintendents who lead a group of churches within a conference, and clergy who lead individual congregations. The GNJUMC consists of the Methodist Movement churches located within nine geographical districts, including Alpine where the Church is located.

The Alpine Church's affiliation with the Methodist Movement began around 1840. The UMC's official records show that Methodist pastors were assigned to the Church from 1844 through the present

time. In October 1870, the members of the Church elected a Board of Trustees and incorporated the Board as a certified corporate religious society. Plaintiff's corporate charter recites that its trustees "have taken upon ourselves the name of 'The Trustees of the Alpine Methodist Episcopal Church.'" That same month, plaintiff acquired title to real property in Alpine. Plaintiff thereafter acquired additional parcels of land in 1894, 1916, and 1950, portions of which it later subdivided and conveyed.

Reverend Kim is a retired ordained elder of the GNJUMC. Appointed by the Bishop of the GNJUMC, he served as the Church's pastor from 2008 to 2014.

In June 2014, plaintiff filed a complaint asserting claims for unjust enrichment, tortious interference with contractual relations and future economic expectations, unauthorized withdrawal of corporate funds, and ultra vires actions taken by defendants on behalf of plaintiff. Specifically, plaintiff alleged Reverend Kim misappropriated Church funds, forged checks, and improperly delegated authority to Christopher Tipton to write checks and handle the financial records of the Church.

The complaint further alleged that Reverend Plumstead, the District Superintendent of the GNJUMC, improperly appointed "an individual known as Joseph" to plaintiff's Board of Trustees. Plaintiff claimed this was part of "a systematic technique used

by the [UMC] to steal land and property from the true owners under the guise of a 'book of discipline' and 'assumed contract' which violates the constitutional differentiation of church and state law." The complaint stated: "[n]one of the [d]eeds to any of the real property make reference to the [UMC] or indicate the properties are held in trust for the [UMC]." Plaintiff denied it ever adopted The Discipline, and contended its "sole relationship [with the GNJUMC] was the payment for services such as a pastor by the locally owned corporation and [its] trustees."

Reverend Kim and the UMC defendants filed answers denying plaintiff's allegations. In addition, the UMC defendants filed a counterclaim asserting that, pursuant to N.J.S.A. 16:10A-11, "[a]ny real property of a local [UMC] church (such as the properties which are the subject of this case) is held, used, kept and maintained by such local church . . . subject to The Discipline and usage [of the UMC]." Based on this contention, the UMC defendants sought a declaration that all Church property was owned by the GNJUMC.

Prior to filing its complaint, plaintiff retained Charles Yannetti, a former Alpine police officer, to investigate Reverend Kim's alleged financial malfeasance. In February 2014, Yannetti and other members of plaintiff met with Plumstead to present and discuss the allegations. On March 12, 2014, Yannetti authored a

report in which he described Plumstead as "very cordial and receptive at the onset of the meeting." Yannetti noted Plumstead "reflected on the serious nature of the allegations being brought before him, and referred to the Book of Discipline to advise the group on bringing this situation to a conclusion through use of the rules set forth by the United Methodist Church." After hearing plaintiff's concerns, Plumstead concluded there was insufficient evidence to substantiate any wrongdoing by Reverend Kim.

Yannetti's March 12, 2014 report detailed the circumstances surrounding the missing funds and Reverend Kim's actions, and concluded Reverend Kim forged checks, ordered checks under "guise and misdirection," demanded blank checks, and used Church funds to pay multiple utility bills for his personal residence. The report also asserted Reverend Kim violated several rules set forth in The Discipline. At his deposition, Yannetti testified he concluded "that the Alpine Community Church was governed by The Book of Discipline and the [UMC.]"

Around this time, Reverend Kim retired and Reverend Plumstead assumed the position of interim pastor. Plumstead then met with the staff relations committee at the Church, which decided to move forward, rather than file a formal complaint with the bishop or a criminal charge against Reverend Kim. Plaintiff's civil complaint followed.

II.

Reverend Kim moved to dismiss plaintiff's complaint pursuant to Rule 4:6-2(e). He argued the court lacked subject matter jurisdiction over ecclesiastical matters previously decided by the UMC's hierarchical order pursuant to its doctrine and polity. The UMC defendants simultaneously moved for a protective order to preclude discovery of documents protected by the cleric-penitent privilege and the New Jersey and United States Constitutions. Reverend Kim filed a cross-motion for a protective order on the same grounds.¹

Judge Wilson granted Reverend Kim's motion to dismiss and issued a comprehensive written opinion explaining his decision. The judge first rejected plaintiff's argument that the Church is a separate entity distinct from the UMC and outside the reach of its doctrine and polity. He stated:

Plaintiff contends that the present case concerns the conduct of two distinct corporate churches. Plaintiff contends that Alpine Church pre-existed the [GNJUMC] for nearly 100 years. Plaintiff relies on N.J.S.A. 16:10A-1 [to -15], under which an independent church, organization, or corporation may join the UMC. N.J.S.A. 16:10A-2 provides that a local church may incorporate with the UMC "[p]ursuant to a resolution adopted by such board of trustees, a meeting of the membership

¹ We note that none of these motions are included in the parties' appendices. We therefore glean this information from the trial court's September 22, 2015 written opinion.

of such church shall be called by notice in writing signed by the president or secretary of such board[,]" specifying the date, time, place, and purpose of the meeting and "notice shall be posted conspicuously at the main entrance of the usual place of worship at least [ten] days prior to the date of such meeting, and shall be read at each of the two morning services of worship, at least [one] week apart, preceding the date of such meeting." N.J.S.A. 16:10A-2(a). "At such meeting the district superintendent, or by his written designation the pastor, shall preside, and a secretary shall be elected to record the proceedings." N.J.S.A. 16:10A-2(b). "If at such meeting the members present and voting shall determine by resolution to incorporate or reincorporate such church, they shall similarly determine the name of the incorporated church and the number of its trustees which shall be three, six or nine." N.J.S.A. 16:10A-2(c).

In a circuitous manner, [p]laintiff indirectly denies that the Church incorporated or reincorporated with the UMC, claiming that [d]efendant's alleged failure to produce documentation showing Alpine Church's compliance with the above requirements ultimately proves its distinct existence from the UMC. While [p]laintiff denies the Alpine Church's connection with the UMC, [p]laintiff, by its own submissions, admits that it previously maintained ties with the Methodist Episcopal Church and upon that church's dissolution, the UMC, at which time the Church worshipped under the direction of Methodist pastors and participated in annual UMC conferences. Now, in the hopes of maintaining this civil action, [p]laintiff attempts to distance itself from the UMC. Plaintiff[,], however[,], has not presented any evidence that the Alpine Church is a separate legal entity apart from the UMC. Plaintiff claims that the Alpine Church wanted to be separate from the

UMC, but [p]laintiff concedes that it employed Methodist pastors, accepted a local UMC congregation into its Church, and gathered regularly with worshipers of the Methodist Movement at annual UMC conferences.

Furthermore, by and through its own submissions, [p]laintiff acknowledges the applicability of The Book of Discipline as the prescribed rules and polity governing Rev[erend] Kim's alleged misconduct. The [c]ourt cannot be swayed by [p]laintiff's unsubstantiated tales of subjugation by the UMC and Rev[erend] Kim's tyrannical, exploitative behavior as pastor. The Alpine Church remained associated with the UMC, accepted its goodwill for many years, and relied upon its doctrine to initially resolve its dispute with Rev[erend] Kim. Plaintiff's dissatisfaction with the hierarchical order's adjudication of its claims does not nullify [p]laintiff's long-standing relationship with the UMC. The Alpine Church was governed by the UMC and subject to its doctrine and polity. An abrupt separation preceding the commencement of this litigation is of no moment.

Judge Wilson rejected plaintiff's second argument that, even if The Discipline constituted applicable authority to govern Reverend Kim's conduct, plaintiff's complaint only addressed his alleged violations of secular law rather than the UMC's polity. In his analysis, the judge noted:

The threshold inquiry to determine whether a claim is capable of adjudication by a civil court is whether the underlying dispute is "a secular one . . . or an ecclesiastical one about discipline, faith, internal organization, or ecclesiastical rule, custom or law." See Abdelhak v. Jewish Press, 411

N.J. Super. 211, 223 (App. Div. 2009). A court must abstain from adjudicating matters that require interpretation of religious canons unless "the dispute can be resolved by the application of purely neutral principles of law." Id. at 224 (holding, in part, that [a] civil court could not resolve [a] defamation claim made by husband against wife because resolution of [the]claim would require probing into customs, traditions, and rules of Orthodox Judaism).

Judge Wilson ultimately concluded:

Even if, arguendo, the Yannetti Report presented legitimate claims of misuse and misappropriation of church funds, disposition of these claims obligates the Court to consider and adhere to The Book of Discipline, which governs financial affairs of the Church. Specifically, on or about February 17, 2014, Superintendent Plumstead met with Yannetti, [Trustee Stephanie] Dello Russo, Former Church Treasurer Woertz, and Office Administrator and Church Organist Carnibucci to discuss the allegations made against Rev[erend] Kim. Superintendent Plumstead referred to The Book of Discipline as the authority to resolve the matter. Additionally, Yannetti himself deferred to The Book of Discipline in the report provided to [p]laintiff's counsel, stating that it was his professional opinion that Rev[erend] Kim violated several rules set forth in The Book of Discipline of the UMC by operating the finances of the Alpine Community Church. Before the Court can determine whether Rev[erend] Kim is liable to [p]laintiff under any claim, it would first have to determine whether Rev[erend] Kim violated the rules set forth in The Book of Discipline and whether the UMC's policy and polity permitted Rev[erend] Kim to engage in certain financial and managerial practices, such as electing

Tipton to hold the books of the Church. Following the well-reasoned thorough analysis of the Appellate Division in Abdelhak and our sister states, the [c]ourt will refrain from exercising jurisdiction over ecclesiastical matters.

Moreover, [p]laintiff . . . sought relief through the UMC's process, wherein [p]laintiff's representatives at the Church met with Superintendent Plumstead, who advised them to gather evidence and present it to him. Plaintiff provided the Yannetti report to Superintendent Plumstead. Plumstead met with the Church's Staff Parish Relations Committee and advised the Committee that they had several options. The Committee could "move on[,]" i.e., accepting that grievances were duly lodged, or pursue internal church or legal action by filing a formal complaint with the bishop's office against Rev[erend] Kim. Upon filing a formal complaint, the bishop would then determine, considering the rules set forth in The Book of Discipline, if the evidence necessitated a hearing before the Board of Ordained Ministry Executive Committee and the imposition of a penalty, including the loss of Rev[erend] Kim's ministerial credentials. The Committee did not take any further internal church or legal action. In response, [p]laintiff, by and through new representatives, did not accept this decision and decided to separate from the UMC. Despite acknowledging that The Book of Discipline governed Rev[erend] Kim's conduct, [p]laintiff's representatives seek the Superior Court's adjudication of those previously decided ecclesiastical matters. Plaintiff believes that the hierarchical bodies of the UMC did not reach a just resolution of their claims and therefore, seeks relief in a secular court. Plaintiff's recent disenchantment with the UMC does not warrant secular court review in contravention of the long-standing jurisprudence of this

state's Appellate Division, its sister states,
and the Supreme Court of the United States.

On September 22, 2015, the court entered companion orders determining the motions for a protective order were rendered moot by the dismissal of the complaint against Reverend Kim. On November 20, 2015, the court denied plaintiff's motion for reconsideration.

The UMC defendants subsequently filed a motion for summary judgment seeking dismissal of plaintiff's remaining claims and a declaration that all real and personal property of the Church was owned by the GNJUMC. Judge Wilson granted summary judgment, again explaining his reasons in a comprehensive nineteen-page written opinion.

The judge began his analysis by reviewing the history of the Methodist Movement, its organizational structure, and the formation of the Alpine Church and its acquisition of Church property. Citing extensively to the record, the judge stated, in pertinent part:

The Alpine Church's affiliation with the Methodist Movement began in or around 1840 before Alpine Township came into being. On or about October 21, 1870, the members of the Church elected a Board of Trustees and incorporated the Board as a certified corporate religious society under the laws of the State of New Jersey adopted on April 17, 1846 and described as "An Act to Incorporate Trustees of Religious Societies." . . .

Plaintiff acknowledged at oral argument that the Alpine Church maintained ties with the Methodist Episcopal Church (and later the United Methodist Church) since the Church's inception. As early as 1840, the Alpine Church accepted and employed Methodist pastors and/or clergymen and gathered regularly with like-minded worshipers of the "Methodist Movement" at annual United Methodist conferences. . . . Although the Church is commonly referred to as the "Community Church[,]" the removal or absence of the word "Methodist" in this designation did not undercut the Church's close relationship with like-minded Methodist believers.

The Alpine Community Church resides on a parcel of land located in Alpine, New Jersey. The real property and the structures erected on it have changed since the Church's formation. The development of the property is evidenced by several real property deeds conveying parcels of land between the Trustees of the Alpine Church and non-party grantors or grantees. . . . It effectuated these land transactions during its association with the [UMC] and the Methodist Movement.

The parties do not contest that the deeds in question did not contain express "trust clauses" stating that the Alpine Church would hold the real property in trust for the [UMC]. However, the Alpine Community Church was aware of its obligation to hold the property in trust for the [UMC]. The Alpine Church manifested a long-standing presence as a house of worship for Methodist members in the Alpine community. . . . By its own admission, the Alpine Church acknowledged that it has always been "a United Methodist parish of the Northern New Jersey Annual Conference[,]" originating in 1841 "when a missionary preacher named Sturr was sent by the Methodist Episcopal Church to the community" Thereafter, "a church society was organized

and a tiny frame structure costing less than \$500 was erected across the street from the current location in what is now Alpine" from which the congregation later "decided to construct a church building on a far grander scale[,]" thus utilizing the real property on which the present religious structure was built. . . .

Through its affiliation with the [UMC], the Alpine Church has operated under the aegis of The Book of Discipline and managed church property in accordance with The Discipline's polity and doctrine. The Book of Discipline has since been amended since the Alpine Church's incorporation. However, The Book of Discipline has always contained, in some form, provisions detailing the rights, responsibilities, duties, and obligations regarding the ownership of church property, including the obligation of all local churches to hold church property in trust for the use and benefit of the entire denomination. . . . The Alpine Church traditionally comported its use and/or ownership of local property with these provisions. For example, in or around June 1989, the Alpine Church sought to use a parcel of its real property for a learning center. On June 30, 1989, the Reverend John R. Dexheimer, then pastor of the Church, informed the Trustees in writing on letterhead with the insignia of the Methodist Movement, that pursuant to The Book of Discipline, the Church could not interfere with a minister's use of the Property. Rev[erend] Dexheimer stated that The Book of Discipline prohibited "the local church trustees" from tying "up church property so that it cannot be used in ways at times that are consistent with the pastor's judgment that is needed 'for religious services or any other proper meeting or purposes'"

The Alpine Church was aware that it could only use its local church property in ways that

benefitted the entire denomination. It understood that "church property[,]" as referenced in Rev[erend] Dexheimer's June 30, 1989 letter, meant property reserved for the entire United Methodist denomination, and that it could not unilaterally alter or use the property without the prior consent of the United Methodist hierarchy. The Alpine Church continued to manage local church property pursuant to The Book of Discipline and with the permission of the United Methodist hierarchy and did not express any discontent with either authority until the instant dispute.

[(footnote omitted).]

Judge Wilson rejected plaintiff's reliance on its contention that the Alpine Church was formed and obtained title to real property prior to implementation of The Discipline and relevant New Jersey statutes. The judge reasoned:

The Book of Discipline and applicable New Jersey Statutes codify the general rule that local church property is held in trust for the entire denomination by and through the governing Conference. With the formation of the newly named "United Methodist Church" in 1968, the New Jersey Legislature adopted N.J.S.A. 16:10A-1 [to] -15. The legislative statement regarding these [s]tatutes addresses the history of the [UMC] and the intended purpose of these statutes:

In 1939, the Methodist Episcopal Church, Methodist Protestant Church and Methodist Episcopal Church South were united to form The Methodist Church. As of 1968, The Methodist Church and The Evangelical United Brethren Church

are uniting to form The United Methodist Church. The purpose of this act is to authorize the uniting churches, their antecedents and their related organizations to assume and use the name "The United Methodist Church" without necessity of amending individual certificates or articles of incorporation.

[(See . . . 1968 N.J. Laws c. 231, eff. July 31, 1968 (Sponsor's Statement, Apr. 1, 1968), pp. 1-2).]

[(footnote omitted).]

Additionally, a second legislative statement further details the history of the [UMC] and explains the purpose of the Statutes:

On April 23, 1968, The Methodist Church and The Evangelical United Brethren Church united to form The [UMC], as a result of which the former denominations will be subject to a common organization and polity. The purpose of this bill is to supplement the statutes pertaining to religious corporations in order that there may be consistency between State law and the Discipline of the [UMC].

[(See . . . 1968 N.J. Laws c. 233, eff. July 31, 1968 (Sponsor's Statement, May 20, 1968), pp. 7).]

The provisions enumerated in the New Jersey Statutes that concern the issue of church property are facially apparent. N.J.S.A. 16:10A-1 explicitly states:

Notwithstanding any other general, special or local law, all religious corporations or churches heretofore

authorized to use, or known by, the names "The Methodist Church," "The Evangelical United Brethren Church," "Methodist Episcopal Church," "Methodist Protestant Church," or "Methodist Episcopal Church South," and all societies, conferences, boards, associations or other organizations directly connected therewith, are hereby authorized and empowered to assume and use the name "The United Methodist Church."

Nothing contained herein shall be deemed to limit, change, affect or alter any other existing right, power, property, obligation, liability or duty of any such religious corporation or church.

[N.J.S.A. 16:10A-1.]

. . . .

The New Jersey Statutes and The Book of Discipline contain parallel rules governing the ownership, transfer, conveyance, and/or sale of church property. N.J.S.A. 16:10A-6 provides that the bylaws of any local church or other organization connected with the [UMC] shall include The Book of Discipline; no other bylaws shall be adopted or inconsistent with The Book of Discipline. See N.J.S.A. 16:10A-6. The Book of Discipline provides that all properties of the UMC churches and other agencies and institutions, are held in trust for the benefit of the entire denomination, and ownership and usage of the church is subject to The Book of Discipline. . . . The Book of Discipline mandates that trust language should be present in all deeds and that such trust provisions are implied in every deed even in the absence of express trust language. (See . . . ¶¶ 2501, 2503.6).

Specifically, The Book of Discipline provides that:

However, the absence of a trust clause...shall in no way exclude a local church or church agency, or the board of trustees of either, from or relieve it from its connectional responsibilities to [t]he [UMC]. Nor shall it absolve a local church or church agency or the board of trustees of either, of its responsibility and accountability to hold all of its property in trust for the [UMC], provided that the intent of the founders and/or a later local church or church agency, or the board of trustees of either, is shown by any or all of the following: a) the conveyance of the property to a local church or church agency (or the board of trustees of either) of [t]he [UMC] or any predecessor to [t]he [UMC]; b) the use of the name, customs, and polity of [t]he [UMC] or any predecessor to [t]he [UMC] in such a way as to be thus known to the community as a part of such denomination; or c) the acceptance of the pastorate of ordained ministers appointed by a bishop or employed by the superintendent of the district or annual conference of [t]he [UMC] or any predecessor to [t]he [UMC].

[(See . . . ¶ 2503.6).]

Section 2504 of The Book of Discipline provides that nothing in the Plan of Union (the union between the Methodist Church and the Evangelical United Brethren Church) requires any denomination of a [UMC] to in any way change title to the

property contained in its deeds or deeds at the time of Union, and that the lapse of time or usage shall not effect said title or control. Title to all property of the local church is subject to provisions of The Book of Discipline, whether title is taken in the name of the local church trustees, or charge trustees, or in the name of a corporation organiz[ed] for that purpose or otherwise. (See . . . ¶ 2504). Therefore, even if a local United Methodist church holds title to certain property, it holds title for the benefit of the entire denomination, by and through the GNJUMC, or the entity with the ultimate authority to control the ownership, transfer, sale, or conveyance of the property.

. . . .

Plaintiff cannot rely upon unsubstantiated, immaterial facts to now dissociate the Alpine Church from the breadth of these religious and statutory texts. The factual record evidences that the Alpine Church has always been a United Methodist affiliated church despite minor changes to its name. The plain language of N.J.S.A. 16:10A-1 states that the New Jersey Statutes appl[y] to all churches that have assumed the names "The Methodist Church," "The Evangelical United Brethren Church," "Methodist Episcopal Church," "Methodist Protestant Church," or "Methodist Episcopal Church South." N.J.S.A. 16:10A-1. The Alpine Church has repeatedly referred to itself as The Alpine Methodist Episcopal church in legal documents and its own literature. . . . Thus, the Alpine Church fits squarely within the scope of the New Jersey Statutes. Additionally, [p]laintiff's characterization of the Alpine Church as an "interdenominational" church is unsubstantiated by the record. Even if, arguendo, this [c]ourt accepted . . . [p]laintiff's representations that the Alpine Church has permitted other religious

organizations to use its buildings on an intermittent basis, there is simply no evidence that the Alpine Church has now affiliated with those organizations.

Moreover, [p]laintiff's assertions that the original Book of Discipline required the inclusion of express trust language has no bearing here. By [p]laintiff's own admission, the Alpine Church has associated with the Methodist Movement since the Church's inception and previously adopted the United Methodist doctrine and polity, expounded in The Book of Discipline. The Book of Discipline has been amended since 1841. However, the Alpine Church has abided by and remained subject to each amended version of The Book of Discipline, including the version which provides that the absence of such express trust language "shall in no way exclude a local church or church agency, or the board of trustees of either, from or relieve it from its connectional responsibilities to The [UMC]. Nor shall it absolve a local church or church agency or the board of trustees of either, of its responsibility and accountability to hold all of its property in trust for the [UMC.]" (See . . . ¶ 2503.6). The Alpine Church's real property deeds did not contain express trust clauses[;] however, the governing doctrine and polity mandates that such trust language is implied in every deed.

Judge Wilson also dismissed plaintiff's remaining claims against the UMC defendants. He noted these claims were "premised upon the same facts and circumstances" he previously addressed with respect to Reverend Kim. Accordingly, the judge again "concluded [the court] lacked subject matter jurisdiction to

decide ecclesiastical matters related to the [UMC's] hierarchical doctrine and polity." This appeal followed.

III.

In dismissing plaintiff's claims against all defendants, the trial court determined it lacked subject matter jurisdiction over the dispute, essentially because (1) any inquiry of Reverend Kim's actions would necessarily implicate the UMC's doctrine and polity, including The Discipline, and (2) plaintiff previously submitted the matter to the UMC for resolution. In the court's view, any determination regarding defendants' actions required it to "exercise jurisdiction over ecclesiastical matters," which it declined to do. On appeal, plaintiff contends it is a congregational, rather than hierarchical, church, and that the court erred in failing to apply neutral principles of law to decide the propriety of Reverend Kim's actions. We disagree.

Our review of the trial court's determination of the purely legal issue of the existence of subject matter jurisdiction is de novo. Santiago v. N.Y. & N.J. Port. Auth., 429 N.J. Super. 150, 156 (App. Div. 2012). A court must normally dismiss a matter if it determines it lacks subject matter jurisdiction. R. 4:6-7; Pressler & Verniero, Current N.J. Court Rules, cmt. 1 on R. 4:6-7 (2017).

"The First Amendment 'clearly bars government from involving itself in purely ecclesiastic matters, including, but not limited to church doctrine, hiring, firing and retention of church employees and or ministers.'" McKelvey v. Pierce, 173 N.J. 26, 38-39 (2002) (citation omitted). The proscription of courts from becoming too entangled in religious affairs finds its genesis in both the Free Exercise Clause and the Establishment Clause of the First Amendment. Id. at 39. The Free Exercise Clause prohibits "secular control or manipulation" of religious organizations and protects their power "to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church, 344 U.S. 94, 116 (1952). "In contrast to the Free Exercise Clause, the Establishment Clause prohibits states from promoting religion or becoming too entangled in religious affairs, such as by enforcing religious law or resolving religious disputes." McKelvey, 173 N.J. at 40 (citations omitted).

"To ensure that judicial adjudications are confined to their proper civil sphere, the United States Supreme Court has developed two approaches to church disputes: the deference rule and the rule of 'neutral principles.'" Solid Rock Baptist Church v. Carlton, 347 N.J. Super. 180, 191 (App. Div. 2002) (citing Maryland & Virginia Eldership v. Church of God at Sharpsburg, 396 U.S. 367,

368-70 (1970); Kleppinger v. Anglican Catholic Church, 314 N.J. Super. 613, 621-22 (Ch. Div. 1998)). When applying the deference rule, a court must "accept the authority of a recognized religious body in resolving a particular doctrinal question." Elmora Hebrew Ctr., Inc. v. Fishman, 125 N.J. 404, 414 (1991). In disputes involving a church with a hierarchical structure, a court "must defer to the authoritative ruling of the highest church authority in the hierarchy to have considered the religious question at issue." Solid Rock Baptist Church, 347 N.J. Super. at 192. In resolving disputes within a congregational, rather than hierarchical, church, a court "should defer to resolutions by a majority (or other appropriate subgroup) of the church's governing body." Elmora Hebrew Ctr., Inc., 125 N.J. at 414.

A "neutral principles" approach may be applied regardless of the governing structure of a particular church. Solid Rock Baptist Church, 347 N.J. Super. at 192. Under this approach, a court applies neutral principles of law to "disputed questions not implicating religious doctrine or practice" and "examin[es] and interpret[s] . . . church documents such as deeds, constitutions, by-laws, and the like in accordance with wholly secular legal rules whose applications do not entail theological or doctrinal evaluations." Ibid.; see also Jones v. Wolf, 443 U.S. 595, 604 (1979); Presbyterian Church v. Hull Mem'l Presbyterian Church, 393

U.S. 440, 449 (1969). Stated differently, where a dispute can be resolved by the application of neutral principles alone, no First Amendment issues arise.

As Judge Wilson correctly recognized, the threshold inquiry is "whether the underlying dispute is a secular one, capable of review by a civil court, or an ecclesiastical one about 'discipline, faith, internal organization, or ecclesiastical rule, custom, or law.'" McKelvey, 173 N.J. at 45 (quoting Bell v. Presbyterian Church, 126 F.3d 328, 331 (4th Cir. 1997)). When adjudicating the merits of a claim requires a court to interpret any of these religious tenets, the court must abstain for lack of subject matter jurisdiction. Id. at 52.

With these principles in mind, we cannot divine an adjudicatory role for a civil court with respect to plaintiff's claims against Reverend Kim and Superintendent Plumstead that would not intrude upon the ecclesiastical domain. Our independent review of the record leads us to conclude that the trial court correctly found it lacked subject matter jurisdiction over the claims that Reverend Kim improperly diverted Church funds, and that he or Reverend Plumstead exceeded their authority by appointing individuals to the Board of Trustees or maintaining the Church's financial records. Resolving whether Reverend Kim misused funds would require the court to consider, under the UMC's

doctrine and polity, including The Discipline, the pastor's role and authority over the Church's finances. It would similarly require the court to determine whether Reverend Kim or Reverend Plumstead exceeded their authority in making appointments.

Moreover, in essence, plaintiff wants the court to reverse the actions of the ecclesiastical hierarchy respecting church governance in circumstances where the UMC's highest authority that was asked to consider Reverend Kim's alleged malfeasance found insufficient evidence of wrongdoing and declined to act. Plaintiff now disputes Superintendent Plumstead's conclusions, despite having explicitly submitted the matter to the UMC for resolution. We cannot parse the ecclesiastical rules and polity of the UMC and then apply neutral principles to determine whether the UMC's designated authority, the district superintendent, properly interpreted and applied church doctrine and polity in this case. Matters of church governance, predicated upon its principles and hierarchical structure, should not be the subject of secular judicial resolution. Rather, we must "defer to the result reached by the highest church authority to have considered the religious question at issue." Elmora Hebrew Ctr., 125 N.J. at 414 (citing Watson v. Jones, 80 U.S. 679, 727 (1871)); Chavis v. Rowe, 93 N.J. 103, 108 (1983)). Accordingly, plaintiff's claims against all defendants were properly dismissed.

IV.

Plaintiff argues that the trial court erred in granting summary judgment in favor of the UMC defendants declaring the Church's real and personal property is held in trust for the benefit of the GNJUMC. Plaintiff contends the court mistakenly applied the hierarchical deference rule rather than neutral principles of law in deciding this issue. Plaintiff's argument is largely grounded on its factual assertions that it is neither a member of the UMC nor has it ever adopted the UMC's Discipline. We conclude otherwise, essentially for the reasons expressed by Judge Wilson in his written opinion. We add the following.

When reviewing the grant of summary judgment, we analyze the decision applying the "same standard as the motion judge." Globe Motor Co. v. Iqdalev, 225 N.J. 469, 479 (2016) (quoting Bhagat v. Bhagat, 217 N.J. 22, 38 (2014)).

That standard mandates that summary judgment be granted "if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law."

[Templo Fuente De Vida Corp. v. Nat'l Union Fire Ins. Co., 224 N.J. 189, 199 (2016) (quoting R. 4:46-2(c)).]

"To defeat a motion for summary judgment, the opponent must 'come forward with evidence that creates a genuine issue of material fact.'" Cortez v. Gindhart, 435 N.J. Super. 589, 605 (App. Div. 2014) (quoting Horizon Blue Cross Blue Shield of N.J. v. State, 425 N.J. Super. 1, 32 (App. Div. 2012)), certif. denied, 220 N.J. 269 (2015). "[C]onclusory and self-serving assertions by one of the parties are insufficient to overcome the motion." Puder v. Buechel, 183 N.J. 428, 440-41 (2005) (citations omitted). "When no issue of fact exists, and only a question of law remains, [we] afford . . . no special deference to the legal determinations of the trial court." Templo Fuente De Vida, 224 N.J. at 199 (citing Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995)).

If an opposing party fails to file a counter-statement of opposing facts, all material facts in the movant's statement will be deemed admitted unless the respondent specifically disputes them and demonstrates the existence of a genuine issue of fact. R. 4:46-2(b). An opposing party who offers no substantial or material facts in opposition to the motion cannot complain if the court takes as true the uncontested facts in the movant's papers. Judson v. Peoples Bank & Trust Co., 17 N.J. 67, 75 (1954); R. 4:46-5(a).

Here, plaintiff failed to provide a counter-statement of material facts, pursuant to Rule 4:46-2(b). Accordingly, the facts derived from the UMC defendants' statement of material facts are deemed admitted, and clearly establish plaintiff's relationship and affiliation with the UMC.

We begin our analysis of the undisputed material facts, and the legal conclusions that flow from them, by again recognizing "the Establishment Clauses of our Federal and State Constitutions, forbidding the establishment of religion, severely circumscribe the role that civil courts may play in resolving church property disputes." Solid Rock Baptist Church, 347 N.J. Super. at 191.

Where, as in the present case, there is an "absence of express trust provisions . . . the hierarchical . . . approach should be utilized in church property disputes in this State. Only where no hierarchical control is involved, should the neutral principles of law principle be called into play." Protestant Episcopal Church v. Graves, 83 N.J. 572, 580 (1980). "In the case of property belonging to a particular ecclesiastical organization which is part of a larger general church organization, a majority cannot secede from that organization and transfer the property of the church to another use." St. John's Greek Catholic Hungarian Russian Orthodox Church v. Fedak, 96 N.J. Super. 556, 577 (App. Div. 1967). Other courts have also held that the "parent body of

a hierarchical church has the right to control the property of local affiliated churches, and, as a corollary, . . . the decision of superior tribunals in hierarchical churches will be enforced in civil courts." African Methodist Episcopal Zion Church v. Union Chapel A.M.E. Zion Church, 308 S.E.2d 73, 86 (1983).

We therefore look to the Alpine Church's affiliation with the UMC to determine whether the trial court properly applied the hierarchical approach rather than neutral principles to resolve this property dispute. Here, it is undisputed that, since 1844, the Church has been led by clergy who have been assigned by the Methodist bishop. This procedure preceded the incorporation of the Church in 1870, and continues to the present day. The official records of the UMC contain a list of all Methodist pastors appointed to the Church since 1844, and indicate these appointments were made to the Alpine Methodist Episcopal Church (1844-1938), Alpine Methodist Church (1939-1967), and Alpine United Methodist Church (1968-present). These pastors track the names of the pastors located in the Church's records.

When the Church was incorporated as the "Trustees of the Alpine Methodist Episcopal Church" in 1870, the Act Concerning Religious Societies stated the church acquired property "in trust for the use of said society or congregation." R.S. 158. As we have noted, in 1785, the Methodist Episcopal churches published

The Discipline as the law governing all Methodist Movement entities. From its earliest version, The Discipline includes the concept that all local church property was held in trust for the use and benefit of the entire denomination, and ownership and usage of church property is subject to The Discipline.

Although new denominations later emerged, they reunited in 1939 and became known as the Methodist Church. In 1968, the Methodist Church joined with the Evangelical United Brethren Church to form the UMC. Also in 1968, New Jersey revised its statutory provisions that govern the UMC and its affiliated branches. See N.J.S.A. 16:10A-1 to -15.

The 1968 legislation provided that a church's "board of trustees may incorporate, or if incorporated may reincorporate, such church" by resolution of the board followed by a meeting and vote of its members, and "all its property, both real and personal shall be subject to the laws, usages, and ministerial appointments of The United Methodist Church." N.J.S.A. 16:10A-2, -3(e). Plaintiff argues that since there is no record of its reincorporation into the UMC, it has not fulfilled N.J.S.A. 16:10A-2 and thus cannot be deemed affiliated with the UMC. This argument, however, fails to consider the last paragraph of N.J.S.A. 16:10A-1, which states: "Nothing contained herein shall be deemed to limit, change, affect or alter any other existing right, power,

property, obligation, liability or duty of any such religious corporation or church." In addition, the language of N.J.S.A. 16:10A-2 does not require organizations that were incorporated prior to the statute's enactment to reincorporate. Rather, the statute only uses the word "may." Viewed as a whole, including the statements that accompany the legislation's enactment, it is clear the legislation permitted churches that were members of the various denominations that merged into the UMC to use the name "United Methodist Church" without the need to amend their operative documents.

It is further undisputed that all the deeds to the real property owned by the Church today are in the name of "The Trustees of the Alpine Methodist Episcopal Church" as grantees, except the 1950 deed, which, significantly, notes the owner as the Alpine Methodist Church and is thus consistent with the 1939 hierarchical name change. N.J.S.A. 16:10A-11 requires that any real property owned or subject to an interest of a local church of the UMC is to be "held, used, kept and maintained by such local church subject to The Discipline and usage of [the UMC] as from time to time authorized and declared by the general conference and by the annual conference within whose bounds such property is located." This is consistent with section 2501 of The Discipline, which provides that all properties of United Methodist local churches are held

in trust for the UMC, subject to the provisions of The Discipline. Furthermore, from its earliest version, The Discipline has made clear that such a local church held its property in trust for the use and benefit of the entire denomination, and ownership and usage of church property is subject to The Discipline.

Relying on St. John's, 96 N.J. Super. at 565-66, plaintiff argues that where, as here, "no formal approval of affiliation" with a religious organization was ever voted on by a congregation, affiliation is not established by showing a continued relationship; dependence upon the organization for clergy; financial donations to the organization; participation by either delegates or observers at meetings of the organization; and consultation and acceptance of the authority of the organization concerning various parish matters.

St. John's involved a church property dispute between a hierarchically structured national church (Metropolia) and a local parish that had never formally affiliated with the Metropolia but had participated on a voluntary basis. We agreed with the trial judge "that the absence of any explicit or formal acceptance by St. John's of control of its affairs by the Metropolia is not necessarily determinative of the relationship between them. The nature of such relationship may be inferred from the facts notwithstanding the absence of formal acceptance." Id. at 568

(citing American Primitive Soc'y v. Pilling, 24 N.J.L. 653, 657 (Sup. Ct. 1855)). However, based on the proofs presented, we found the relationships between St. John's and the Metropolia were "equally consistent with [St. John's] recognition of the authority of the Moscow Patriarchate . . . or of the Russian Church Abroad" Id. at 568-69. We also noted "the continued, consistent insistence by the congregation upon its right to conduct its own temporal affairs" Id. at 575.

As Judge Wilson aptly concluded, unlike St. John's, the factual record in the present case demonstrates a substantial relationship between the Alpine Church and the UMC. In addition to the factors we have noted, importantly, the Church has consistently held itself out as an affiliated UMC member. For example, in 1941, the cover of the Church's "A Hundred Years" booklet denominated it the "Alpine Methodist Church." A church bulletin dated November 1, 1970 noted the name of the Church as the "Alpine Community United Methodist Church," and an October 17, 1971 bulletin identified it as "Alpine Community Methodist Church." The Affirmation of Faith and hymns referenced in the bulletins are found in the United Methodist hymnal. When celebrating its 125th anniversary, the Church published "The Story of an Enduring Enthusiasm" in which it stated it "is a United Methodist parish of the Northern New Jersey Annual Conference."

Unlike St John's, here there is no evidence the Church was either integrally related to another church or organization or functioned autonomously.

Additionally, the record establishes the Church's continued adherence to The Discipline. Plaintiff's April 16, 1979 resolution dealing with the Alpine Community House (one of the buildings on the Church property) states it "is the property of the Alpine Community Church (United Methodist) for which the Trustees are responsible under [T]he Discipline of the Methodist Church." On June 30, 1989, the Church's then-pastor authored a letter in which he indicated that, pursuant to the Book of Discipline, the Church trustees could not permit the use of any of the Church property without the consent of the pastor. On December 29, 1989, the pastor sent a "welcome letter" to Board trustees advising them, among other things, to "[k]eep the matter of the Trust Clause . . . in the back of your minds. In United Methodism the legal ties between local churches and their Annual Conference are strong, and they do impose limitations upon local boards' autonomy." The Church's Conference notes from 1998 through 2013 all reference the UMC's ecclesiastical hierarchy, including the bishop and district superintendent, and include attached annual reports of the Church's trustees as required by The Discipline. Moreover, Yannetti, plaintiff's own investigator, concluded the Church was

governed by The Discipline and the UMC after speaking with Church representatives.

In short, plaintiff's contentions that it is not affiliated with the UMC and has not adopted The Discipline are mere "conclusory and self-serving assertions" that lack any documentary support and thus "are insufficient to overcome the motion." Puder, 183 N.J. at 440-41. The evidence presented by the UMC defendants "is so one-sided that [they] must prevail as a matter of law" Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 540 (1995) (quoting Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252 (1986)). Accordingly, the trial court properly granted summary judgment declaring the Church is subject to the hierarchical authority of the UMC and that all Church property is held in trust for the GNJUMC.

To the extent we have not specifically addressed any of plaintiff's remaining arguments, we conclude they are without sufficient merit to warrant further discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION