

Court of Appeals
of the
State of New York

KENNETH GORDON, JOHN MANLEY, MICHAEL EATON,
MATTHEW BLACKWELL, SHAUN BABCOCK, RICHARD STOTZ,
THOMAS CARLSEN, ROBERT HAMMOND, WILLIAM STORTZ,
LEE STROCK, DAVID GEORGE, JOHN CONKLIN, DAVID YOUNG,
AS TRUSTEES OF THE TRUSTEES OF PRESBYTERIAN SOCIETY OF
CAYUGA CREEK d/b/a LANCASTER PRESBYTERIAN CHURCH and
THE TRUSTEES OF THE PRESBYTERIAN SOCIETY OF CAYUGA CREEK,

Plaintiffs-Appellants,

– against –

THE PRESBYTERY OF WESTERN NEW YORK and
PRESBYTERIAN CHURCH (U.S.A.), a Corporation,

Defendants-Respondents.

OPPOSITION TO MOTION FOR LEAVE TO APPEAL

LAW OFFICE OF MICHAEL PILARZ
Attorneys for Defendant-Respondent
Presbyterian Church (U.S.A.)
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Of Counsel:
MICHAEL PILARZ

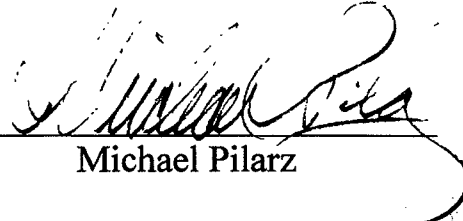
CORPORATE DISCLOSURE STATEMENT

Defendant-Respondent Presbyterian Church (U.S.A.) hereby states that no parents, subsidiaries, and affiliates exist, except to the extent that pursuant to its Book of Order the church comprises the following constituent entities: local congregations, sessions, presbyteries, synods, and General Assembly.

DATED: Buffalo, New York
January 21, 2010

Law Offices of Michael Pilarz

By:



Michael Pilarz

Attorney for Presbyterian Church
(U.S.A.), A Corporation
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716-852-4351

STATE OF NEW YORK
COURT OF APPEALS

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STROCK, DAVID GEORGE, JOHN CONKLIN, DAVID
YOUNG, as TRUSTEES OF THE TRUSTEES OF THE
PRESBYTERIAN SOCIETY OF CAYUGA CREEK
d/b/a LANCASTER PRESBYTERIAN CHURCH and
THE TRUSTEES OF THE PRESBYTERIAN SOCIETY
OF CAYUGA CREEK

Plaintiffs

v.

AFFIDAVIT

THE PRESBYTERY OF WESTERN NEW YORK
and PRESBYTERIAN CHURCH (U.S.A.), A
CORPORATION

Motion No. 2010-110

Defendants

STATE OF NEW YORK)
COUNTY OF ERIE)

Michael Pilarz, being duly sworn, deposes and says:

1. I am an attorney licensed to practice law in the State of New York.
2. I represent defendant Presbyterian Church (U.S.A.), A Corporation in this declaratory judgment action.
3. This affidavit is made in opposition to plaintiffs' motion for leave to appeal to the Court of Appeals.

4. The subject action does not merit further review by the Court of Appeals.

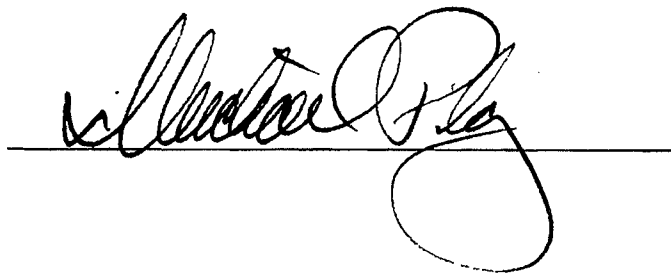
5. Since *Jones v. Wolf*, 443 U.S. 595 (1979), the Court of Appeals has addressed the issue of neutral principles and their application to individual churches seeking to withdraw from regional or national organizations. See, *First Presbyt. Church of Schenectady v. United Presbyt. Church*, 62 N.Y.2d 110 (1984); *Episcopal Diocese of Rochester v. Harnish*, 11 N.Y.3d 340 (2008).

6. In fact, the *Schenectady* case, supra, involved the United Presbyterian Church in the United States of America, an entity that eventually became in 1983 the Presbyterian Church (U.S.A.), the defendant in this action.

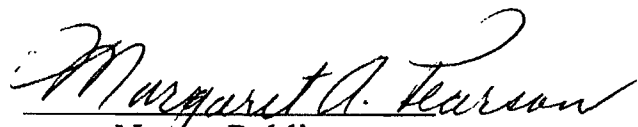
7. The rulings of the Court of Appeals and Appellate Divisions have been consistent in their fundamental analysis, most recently evidenced in *Presbytery of Hudson River of Presbyterian Church (U.S.A.) v. Trustees of the First Presbyterian Church and Congregation of Ridgeberry*, (2010 WL 114396; 2d Dept. 2010).

8. It should be noted that plaintiffs try to raise First Amendment issues for the first time in this motion.

Wherefore, your deponent respectfully requests an Order denying plaintiffs' motion and for such other relief as to the court seems just and proper, together with costs and disbursements of the motion.



Sworn to before me this
January 21, 2010


Notary Public

MARGARET A. PEARSON
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES OCT. 19, 2010.