

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

PETERS CREEK UNITED PRESBYTERIAN
CHURCH,

Plaintiff,

v.

WASHINGTON PRESBYTERY OF
PENNSYLVANIA,

Defendant.

) CIVIL DIVISION

) No.:

) **EMERGENCY MOTION FOR
PRELIMINARY INJUNCTION**

) Filed on Behalf of Plaintiff,
Peters Creek United Presbyterian Church

) Counsel of Record for this Party:

) Frank Kosir, Jr., Esquire
PA ID #87329

) Andrea Geraghty, Esquire
PA ID #38525

) June F. Swanson, Esquire
PA ID #41012

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IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

PETERS CREEK UNITED PRESBYTERIAN CHURCH,)	CIVIL DIVISION
)	
Plaintiff,)	No.:
)	
v.)	
)	
WASHINGTON PRESBYTERY OF PENNSYLVANIA,)	
)	
Defendant.)	

NOTICE OF PRESENTATION

TO: Washington Presbytery of Pennsylvania
P.O. Box 146
89 Lively Road
Eighty-Four, PA 15330-0146

Telefax: 724-222-7420

Please be advised that the within Motion will be presented to the Honorable _____, Judge of the Washington County Court of Common Pleas on the ____ day of _____, 2007 at _____, or as soon thereafter as is convenient for the Court.

Date

Frank Kosir, Jr., Esquire
PA ID #87329

Andrea Geraghty, Esquire
PA ID #38525

June F. Swanson, Esquire
PA ID #41012

GERAGHTY + ASSOCIATES, P.C.

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EMERGENCY MOTION FOR PRELIMINARY INJUNCTION

AND NOW, comes Peters Creek United Presbyterian Church (hereinafter “Peters Creek Church”), by its attorneys, Frank Kosir, Jr., Andrea Geraghty and Geraghty + Associates, PC, and files the following Motion for Preliminary Injunction.

A. PARTIES

1. Plaintiff, Peters Creek Church, is a non-profit corporation organized under the laws of the Commonwealth of Pennsylvania, having its principal office at 250 Brookwood Road, Venetia, Pennsylvania 15367.
2. Defendant, the Washington Presbytery of Pennsylvania (the “Presbytery”) is a non-profit corporation organized under the laws of the Commonwealth of Pennsylvania, having its principal office at P.O. Box 146, 89 Lively Road, Eighty-Four, Pennsylvania 15330-0146.
3. The Presbytery is the geographical district of the Presbyterian Church in the United States of America (“PCUSA”) in which Peters Creek Church is physically located.

B. FACTS

4. In this matter, Peters Creek Church has filed a Complaint in Civil Action for Declaratory Judgment and to Quiet Title with respect to, *inter alia*, the property which is the subject of this motion.

5. On or about July 25, 1931, the Charter of “Peters Creek United Presbyterian Church of Peters Township, Washington County, Pennsylvania” (the “Charter”) was adopted by thirteen subscribers and approved by Decree of the Court of Common Pleas of Washington County on September 28, 1931 at No. 3452 of 1931 (the “Decree”).

6. Since its inception as an unincorporated association in the late 1700’s, Peters Creek Church has purchased a number of parcels of real property located at 250 Brookwood Road, Venetia, 15367, Peters Township, Washington County, Pennsylvania, identified as Washington County Tax Parcel Nos. 540-002-07-00-0001 and 540-002-00-01-0024, for its use as a Church, educational center, meeting place and homes for displaced persons in need of temporary shelter. This real property is more particularly described in the Complaint filed in this matter.

7. Peters Creek Church caused to be constructed at its own expense the church buildings, education and social center and related buildings, along with certain previously constructed buildings, which real property, buildings and improvements are referred to herein as “the Peters Creek Property.”

8. The Peters Creek Church maintains cash and other assets in its possession or control or with financial institutions used in its operations, missions and fundraising, funded solely through the efforts of the Peters Creek Church and its members and donors.

9. In 1931, at the time of its incorporation, Peters Creek Church was affiliated with United Presbyterian Church of North America, a national denomination of Presbyterian churches.

10. In 1958, the United Presbyterian Church of North America merged with the Presbyterian Church in the United States of America to form the United Presbyterian Church in the United States of America.

11. In 1983, the United Presbyterian Church in the United States of America merged with the Presbyterian Church of the United States to form the Presbyterian PCUSA.

12. At the time of its formation in 1983, the PCUSA adopted its constitution, including Chapter VIII which chapter purports to impose a trust upon all property owned by individual churches for the benefit of the PCUSA.
13. Peters Creek Church has not conveyed any of its property, real or personal into trust for the PCUSA.
14. Beginning in 2002, and continuing to the present, the Peters Creek Church embarked upon an aggressive capital campaign to complete significant renovations to the church and related structures. During this campaign, church members, donors and potential lenders have raised questions and expressed concern about the ownership of real and personal property of Peters Creek Church.
15. In order to answer the questions and satisfy the concerns, in the early months of 2007, Peters Creek Church began a dialogue with the Washington Presbytery seeking to confirm Peters Creek's sole legal and equitable ownership of the Peters Creek Properties.
16. On May 6, 2007, the Session of Peters Creek Church held a congregational information meeting, followed by a meeting of Session. Representatives of the Presbytery attended the Session meeting and introduced a proposal, to be presented to the Presbytery, to establish a procedure which would be followed by churches seeking to disaffiliate from the PCUSA.

C. MATTERS IN DISPUTE

17. Upon information and belief, Peters Creek Church avers that, on May 8, 2007, the Presbytery authorized, and intends to send or has sent, an Administrative Commission onto Peters Creek Church's property to seize control of Peters Creek property, both real and personal, including its financial assets, to forcibly occupy the premises and, to take control of the operation of Peters Creek Church.
18. Peters Creek believes, and therefore avers, that the Presbytery has no authority under its governing laws or the laws of Pennsylvania to seize control of the property and operations of Peters Creek Church, either directly or by the appointment of an Administrative Commission.

19. If the Presbytery is permitted to seize control of the property and operations of Peters Creek Church, either directly or through an Administrative Commission, Peters Creek will suffer immediate and irreparable harm, which harm cannot be compensated in money damages, including but not limited to:

- a. Preventing lawfully elected elders and deacons from constituting a Session, Peters Creek Church's governing body, by means including, but not limited to, barring them from the Peters Creek Property and by denying them access to records and financial and other resources.
- b. Preventing Peters Creek Church's lawfully called pastors from carrying out their duties to serve the members of Peters Creek Church by such means including, but not limited to, barring them from the Peters Creek Property and by denying them access to financial records and other resources.
- c. Preventing Peters Creek Church's duly appointed trustees, who are under a duty to manage Peters Creek Church's corporate and business affairs, from fulfilling their duties to Peters Creek Church's corporation by such means including, but not limited to, barring them from the Peters Creek Property and by denying them access to records and financial and other resources.
- d. Preventing some of Peters Creek Church's individual members from worshipping God as they see fit by means including, but not limited to, barring them from the Peters Creek Property and by denying them access to records and financial and other resources.
- e. Interfering with the operation of Peters Creek Church, the pastoral work of the Pastors duly called to serve the members of Peters Creek Church, the administrative work of the staff of Peters Creek Church.
- f. Preventing members, officers, elders and deacons of Peters Creek Church from freely gathering on their own property;

g. Disrupting the business relationships of Peters Creek Church, particularly with bankers and vendors, by offering threats and inducements not to deal with Peters Creek Church and by asserting invalid title to Peters Creek Church's real and personal property.

20. If the requested injunction is granted, the operations of Peters Creek Church will continue as they have for more than 200 years. If the injunction is not granted, the resulting injury to Peters Creek Church will be greater than any harm that would be suffered by the Presbytery if this equitable relief is granted.

21. The granting of this requested injunction will serve to maintain the status quo or, if any action is taken by the Presbytery or its Administrative Commission before this motion is presented, will serve to restore the parties to the situation as it existed prior to the creation of the Administrative Commission.

22. Peters Creek Church has a clear right to relief and a substantial likelihood of success on the merits of its property dispute with Presbytery, as is more fully set forth in Peters Creek Church's Complaint.

WHEREFORE, Peters Creek Church requests that a preliminary and permanent injunction issue enjoining the Presbytery from seizing control of the property and operations of Peters Creek Church, either directly or by installing an Administrative Commission against Peters Creek Church, and from occupying, seizing or exercising control over the real and personal property of Peters Creek Church, and from interfering with Peters Creek Church, its pastors, operations and members in any way.

Respectfully submitted,

Date

Frank Kosir, Jr., Esquire
PA ID #87329

GERAGHTY + ASSOCIATES, P.C.
Attorneys for Plaintiff

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PETERS CREEK UNITED PRESBYTERIAN CHURCH,)	CIVIL DIVISION
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v.)	
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WASHINGTON PRESBYTERY OF PENNSYLVANIA,)	
)	
Defendant.)	

ORDER OF COURT

AND NOW, this _____ day of _____, 2007, it is hereby ordered, adjudged and decreed that a temporary injunction is issued against Defendant, the WASHINGTON PRESBYTERY OF PENNSYLVANIA, enjoining it from installing an Administrative Commission against Plaintiff, PETERS CREEK UNITED PRESBYTERIAN CHURCH, and from occupying, seizing or exercising control over Peters Creek Church's real and personal property or from interfering with Peters Creek Church, its operations and members in any way until otherwise ordered by this court. An Argument on Plaintiff's Motion for Preliminary Injunction will be held before the Honorable Paul Pozonsky of the Court of Common Pleas of Washington County on the ___ day of May, 2007 at _____.

BY THE COURT,

_____ , J.

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WASHINGTON PRESBYTERY OF PENNSYLVANIA,)	
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Defendant.)	

ORDER OF COURT

AND NOW, this _____ day of _____, 2007, it is hereby ordered, adjudged and decreed that Peters Creek United Presbyterian Church shall be entitled to present its within Motion for a Preliminary Injunction to the Honorable _____, Judge of the Court of Common Pleas of Washington County on the _____ day of _____, 2007.

BY THE COURT,

_____, J.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Motion was served, via facsimile and First Class United States Mail, postage prepaid, on the party and date below:

The Washington Presbytery
P.O. Box 146
89 Lively Road
Eighty-Four, Pennsylvania 15330-0146

Telefax: 724-222-7420

Date

Frank Kosir, Jr., Esquire
PA ID #87329

GERAGHTY + ASSOCIATES, P.C.
Attorneys for Plaintiff