

IN THE CIRCUIT COURT OF ST. CHARLES COUNTY  
STATE OF MISSOURI

DARDENNE PRESBYTERIAN )  
CHURCH, INC., )  
 )  
Plaintiff / Counterclaim-Defendant )  
 )  
v. )  
 )  
PRESBYTERY OF GIDDINGS- )  
LOVEJOY, INC. )  
 )  
Defendant / Counterclaimant )  
 )  
and )  
 )  
PRESBYTERIAN CHURCH (U.S.A.), )  
A CORPORATION, )  
 )  
Defendant. )

Case No. 2311-CC01028

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF  
PRESBYTERIAN CHURCH (U.S.A.), A CORPORATION,  
TO DISMISS FOR LACK OF PERSONAL JURISDICTION**

The Court lacks personal jurisdiction over the claims asserted in this action against Defendant Presbyterian Church (U.S.A.), A Corporation (the “A Corporation”). The A Corporation is a Pennsylvania nonprofit corporation with a principal office in Kentucky. The Petition does not allege the A Corporation has taken any action in Missouri. Rather, the only allegation pertaining to personal jurisdiction over the A Corporation hinges solely on whether the A Corporation claims an interest in the real estate at issue in this lawsuit. The A Corporation does not claim such an interest. Thus, there is no basis for personal jurisdiction. Accordingly, the Court should dismiss the Petition as against the A Corporation for lack of personal jurisdiction.

## BACKGROUND FACTS

### A. Overview of the governance of Presbyterian Church (U.S.A.).

The Presbyterian Church (U.S.A.) (the “Denomination”) is not a corporation or other legal entity capable of being sued; rather, it is an unincorporated body of Reformed Christians who have agreed to conduct their worship and other religious activities in conformity with the then-current version of the Denomination’s Constitution. Affidavit of Caroline Laurie Griffith (“Griffith Aff.”) ¶¶ 1–5.<sup>1</sup> The Constitution consists of two parts: the *Book of Confessions* and the *Book of Order*. *Id.* ¶ 6. The *Book of Order* contains the Foundations of Presbyterian Polity, the Form of Government, the Directory for Worship, and the Church Discipline of the Denomination. *Id.* ¶ 8.

The *Book of Order* provides that the Denomination is governed by various church “councils,” from the local congregational level to the national level, called the “session, the presbytery, the synod, and the General Assembly.” *Id.* at ¶ 9 (citing *Book of Order* § G-3.0101). Though the councils are all connected as part of one united church, they are distinct and their jurisdiction is limited by the express provisions of the Denomination’s Constitution, with powers not mentioned in the Constitution “reserved to the presbyteries.” *Id.*

The *Book of Order* requires each of the Denomination’s councils to form and maintain a corporation to hold and manage that council’s property and conduct its business. *See id.* at ¶ 10 (citing *Book of Order* § G-4.0101). Following this requirement, the Denomination’s highest council called the General Assembly maintains the A Corporation as its principal corporation. *Id.* at ¶¶ 3, 11 (citing *Book of Order* § G-4.0101). Thus, despite their names being quite similar, the A

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<sup>1</sup> The affidavit of Caroline Laurie Griffith is attached hereto as **Exhibit 1**. The Court may consider affidavits offered in support of a motion to dismiss for lack of personal jurisdiction without converting the motion into one for summary judgment. *Mello v. Giliberto*, 73 S.W.3d 669, 674 (Mo. App. E.D. 2002).

Corporation and the Denomination are not the same thing.

**B. The A Corporation Claims No Interest in the Property at Issue in this Lawsuit.**

The *Book of Order* contains provisions concerning property of the various councils in the Denomination. *See* Griffith Aff., ¶¶ 12-17 (citing *Book of Order* §§ G-4.0203, et seq.). Among those provisions is Section G-4.0203, which states that all property held by or for the councils “is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.).”<sup>2</sup> Griffith Aff., ¶ 12. However, as used in the *Book of Order*, “Presbyterian Church (U.S.A.)” refers to the Denomination, not to the General Assembly or to the A Corporation. *Id.* at ¶ 11.

Thus, the A Corporation does not claim to be the beneficiary of the trust or to be the proper entity to litigate the trust question in this case because the *Book of Order* does not give any rights or responsibilities to the General Assembly regarding the property held by a session or local congregation such as the Plaintiff in this case, Dardenne Presbyterian Church. *Id.* at ¶¶ 18-19. Rather, consistent with the *Book of Order*, the right and responsibility to enforce and seek recognition of all property rights held by the Denomination with respect to the property titled in the name of Dardenne Presbyterian Church lies solely and wholly with the Presbytery of Giddings-Lovejoy. *Id.* at ¶ 20. And indeed, the Presbytery has filed pleadings in this case doing just that.

**C. Allegations in the Petition.**

The Petition correctly alleges that the A Corporation is a Pennsylvania nonprofit corporation with offices in Kentucky. Petition (“Pet.”), ¶ 7. The Petition also alleges that the Presbytery of Giddings-Lovejoy, Inc. is a Missouri nonprofit corporation with a Missouri registered agent. *Id.* at ¶ 6. The Petition does not allege that the A Corporation has done anything in Missouri. *See generally* Pet.

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<sup>2</sup> The Petition refers to this provision as the “trust clause” or “PCUSA trust.” Petition, ¶¶ 3, 11.

Instead, the Petition's sole allegation concerning personal jurisdiction over the A Corporation is: "To the extent that the Presbytery and the PCUSA continue to maintain that they hold any interest in the disputed Missouri property at issue (whether a trust interest or otherwise), they are both subject to personal jurisdiction in Missouri. *See* MO. STAT. § 506.500(1)(4)." Pet. ¶ 9. It is not clear exactly what the Petition means when it refers to "PCUSA" in that allegation and in other references. Initially, the Petition seems to use the term in reference to the "national Presbyterian denomination, the PCUSA." *Id.* at ¶ 1. Later, the Petition defines "PCUSA" to mean the A Corporation. *Id.* at ¶ 7. Thus, the Petition appears to conflate the Denomination and the A Corporation, seemingly referring to them interchangeably as one monolithic "PCUSA" and treating them as one and the same, which they are not.

In possible recognition of the *Book of Order's* division of jurisdictional authority and responsibility among the Denomination's councils, the Petition alleges that "[i]n many comparable cases, the applicable presbytery serves as the representative of the PCUSA denomination and the defender of the 'PCUSA trust' at issue." *Id.* at ¶ 11. However, as set forth above, the Petition then confuses the A Corporation with the Denomination as what it labels "the purported beneficiary of the claimed PCUSA trust." *Id.* at ¶ 11. The confusion derives from Plaintiff's misunderstanding that "the PCUSA denomination has adopted a corporate form, appropriately named as 'Presbyterian Church (U.S.A.), A Corporation.'" *Id.* at ¶ 11. As set forth above, this is not accurate. Consistent with the *Book of Order*, the A Corporation is a corporate form of the council called the General Assembly – not of the entire Denomination. The A Corporation does not claim to be the beneficiary of the trust at issue in the Petition and does not claim a property interest in the real estate at issue in this case. *See* Griffith Aff. ¶¶ 18-19.

## ARGUMENT

### **A. The Court lacks personal jurisdiction over the A Corporation in this Case.**

It is the plaintiff's burden to establish a prima facie case of jurisdiction in order to withstand a motion to dismiss. *Osage Homestead, Inc. v. Sutphin*, 657 S.W.2d 346, 350 (Mo. App. E.D. 1983). It can do so only by showing that: (1) the action arose out of an activity covered by Missouri's long-arm statute; and (2) the defendant had sufficient minimum contacts with this state to satisfy due process requirements. *Conway v. Royalite Plastics, Ltd.*, 12 S.W.3d 314, 318 (Mo. 2000). Plaintiff cannot carry this burden on either element.

First, the A Corporation did not engage in any activity covered by Missouri's long-arm statute relative to this case. *See* Mo. Rev. Stat. § 506.500.1. The Petition makes no allegation that the A Corporation transacted business, made a contract, committed a tort, or engaged in any other act in the state. The Petition alleges that, "[t]o the extent that the Presbytery and the PCUSA continue to maintain that they hold any interest in the disputed Missouri property at issue (whether a trust interest or otherwise), they are both subject to personal jurisdiction in Missouri. *See* Mo. Stat. § 506.500.1 (4)." Pet., ¶ 9. Yet, the A Corporation never maintained that it held any interest in the property, and the A Corporation continues to claim no such interest.<sup>3</sup>

The cited subsection of the long-arm statute provides for personal jurisdiction over any out-of-state corporation "as to any cause of action arising from the doing of any such acts: ... (4) The ownership, use, or possession of any real estate situated in this state." Mo. Stat. § 506.500.1(4). Just as the A Corporation does not claim an interest in the real estate at issue in this lawsuit, there is also no allegation or suggestion that the A Corporation owns, uses, or possesses the real estate

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<sup>3</sup> There is no conflict between the Griffith Affidavit and the Petition on this point. The Petition asserts personal jurisdiction only "to the extent that" a named defendant maintains that it holds an interest in the property at issue. Pet. ¶ 9. Here, the A Corporation affirmatively claims *not* to hold any such interest.

at issue in this lawsuit. There is no basis under the long-arm statute by which to exercise personal jurisdiction over the A Corporation in this case. Accordingly, the Court should dismiss all claims against the A Corporation for lack of personal jurisdiction.

Second, the A Corporation is not alleged to have sufficient minimum contacts with Missouri to satisfy Due Process protections. The Court need not reach this second element of the personal jurisdiction analysis because the first element—the long-arm statute—is not satisfied. However, to the extent the Court addresses this point, it also compels the conclusion that personal jurisdiction over the A Corporation is lacking in this case. The Due Process Clause of the Fourteenth Amendment to the United States Constitution limits a court’s power to exercise personal jurisdiction. *Conway*, 12 S.W.3d at 318. Due process requires that the A Corporation have certain minimum contacts with Missouri so that maintaining the suit does not offend traditional notions of fair play and substantial justice. *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945). The purpose of the “minimum contacts” requirement is to protect defendants against the burden of litigation at a distant or inconvenient forum, and to ensure that states do not reach beyond the limits of their sovereignty imposed by their status in the federal system. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291–92 (1980).

Here, there is no allegation of *any* contact between the A Corporation and Missouri – let alone the required threshold of “minimum contacts.” *See generally* Pet. To be sure, given its connection with the Denomination’s General Assembly, the A Corporation’s operations certainly affect the Denomination’s congregants, local churches, and presbyteries in Missouri. As the *Book of Order* makes clear, the Denomination and its councils are “united” as parts of “the whole church.” Griffith Aff. ¶ 9 (citing *Book of Order* § G-3.0101). However, given those connections’ ecclesial nature and quality, the fact that they in no way target Missouri in particular, and the

absence of any connection between them and the claims here, they are not the sort of concrete or substantial matters that constitute purposeful availment under the jurisdictional minimum contacts analysis. *See Bristol-Myers Squibb Co. v. Superior Court of Cal.*, 582 U.S. 255, 264 (2017) (“When there is no [connection between the forum and the underlying controversy], specific jurisdiction is lacking regardless of the extent of a defendant’s unconnected activities in the State.”).

In fact, the First Amendment’s Establishment Clause prohibits civil courts from probing canons of a hierarchical churches for bases of personal jurisdiction. *See, e.g., Tell v. Roman Catholic Bishops of Diocese*, Nos. 09C-05-171 JAP, 09C-06-196 JAP, 2010 Del. Super. LEXIS 162, at \*14, 20; 2010 WL 1691199, at \*6, 16 (Super. Ct. Apr. 26, 2010) (citing *Maryland and Virginia Eldership of the Churches of God v. Church of God at Sharpsburg, Inc.*, 396 U.S. 367, 369 (1970) (Brennan, J., concurring)) (finding no personal jurisdiction).

There is no basis upon which Missouri may exercise personal jurisdiction over the A Corporation in this case. The Petition does not allege facts sufficient to establish jurisdiction under Missouri’s long-arm statute. Nor does the Petition allege any actions at all taken by the A Corporation in Missouri connected with this case. The Petition should be dismissed as to the A Corporation for lack of personal jurisdiction.

### **CONCLUSION**

For the reasons set forth herein, the A Corporation respectfully asks the Court to grant its motion and dismiss all claims in the Petition as to the A Corporation.

Dated: January 23, 2024.

Respectfully submitted,

POLSINELLI PC

By: /s/Britton St. Onge

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*Attorneys for Defendant Presbyterian Church  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing was sent by email on January 23, 2024  
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*Attorneys for Dardenne Presbyterian Church, Inc.*

*/s/Britton St. Onge* \_\_\_\_\_

# **Exhibit 1**

IN THE CIRCUIT COURT OF ST. CHARLES COUNTY  
STATE OF MISSOURI

DARDENNE PRESBYTERIAN )  
CHURCH, INC., )  
 )  
Plaintiff / Counterclaim-Defendant )  
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v. )  
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PRESBYTERY OF GIDDINGS- )  
LOVEJOY, INC. )  
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Defendant / Counterclaimant )  
 )  
and )  
 )  
PRESBYTERIAN CHURCH (U.S.A.), )  
A CORPORATION, )  
 )  
Defendant. )

Case No. 2311-CC01028

**AFFIDAVIT OF CAROLINE LAURIE GRIFFITH**

I, CAROLINE LAURIE GRIFFITH, being duly sworn, do hereby attest as follows under penalty of perjury:

1. I am over the age of 18, a citizen of the United States, of sound mind, capable of reading and understanding English, and give this Affidavit voluntarily.
2. I am Associate Director for Constitutional Interpretation in the Mid-Council Ministries Department of the Office of the General Assembly of the Presbyterian Church (U.S.A.).
3. I am authorized to give this Affidavit on behalf of Presbyterian Church (U.S.A.), A Corporation (the "A Corporation"), which is a Pennsylvania nonprofit corporation and is the principal corporation of the General Assembly of the Presbyterian Church (U.S.A.).

4. The facts set forth in this Affidavit are based on my personal knowledge in my capacity as Associate Director for Constitutional Interpretation.

5. The Presbyterian Church (U.S.A.) (the "Denomination") is an unincorporated body of Reformed Christians who have agreed to conduct their worship and other religious activities in conformity with the then current version of the Presbyterian Church (U.S.A.) Constitution. The Denomination is not a corporation or other legal entity.

6. The Presbyterian Church (U.S.A.) Constitution is comprised of two parts: the *Book of Confessions* and the *Book of Order*.

7. The *Book of Confessions* contains the official text of the confessional documents of the Denomination.

8. The *Book of Order* contains the Foundations of Presbyterian Polity, the Form of Government, the Directory for Worship, and the Church Discipline of the Denomination.

9. Section G-3.0101 of the *Book of Order* provides:

The Presbyterian Church (U.S.A.) is governed by councils composed of presbyters elected by the people (F-3.0202). These councils are called the session, the presbytery, the synod, and the General Assembly. All councils of the church are united by the nature of the church and share with one another responsibilities, rights, and powers as provided in this Constitution. The councils are distinct, but have such mutual relations that the act of one of them is the act of the whole church. The jurisdiction of each council is limited by the express provisions of the Constitution, with the acts of each subject to review by the next higher council. Powers not mentioned in this Constitution are reserved to the presbyteries.

10. Section G-4.0101 of the *Book of Order* provides:

Where permitted by civil law, each presbytery, synod, and the General Assembly shall cause a corporation to be formed and maintained and shall determine a method to constitute the board of trustees by its own rule. The corporation so formed, or individual trustees, shall have the following powers: to receive, hold, encumber, manage, and transfer property, real or personal, for and at the direction of the council.

11. As used in the *Book of Order*, "Presbyterian Church (U.S.A.)" refers to the Denomination, not to the A Corporation. The A Corporation is the principal corporation of the highest council, the General Assembly, of the Denomination, established pursuant to G-4.0101 of the *Book of Order*.

12. Section G-4.0203 of the *Book of Order* provides:

All property held by or for a congregation, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of a congregation or of a higher council or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.).

13. Section G-4.0204 of the *Book of Order* provides:

Whenever property of, or held for, a congregation of the Presbyterian Church (U.S.A.) ceases to be used by that congregation as a congregation of the Presbyterian Church (U.S.A.) in accordance with this Constitution, such property shall be held, used, applied, transferred, or sold as provided by the presbytery.

14. Section G-4.0205 of the *Book of Order* provides:

Whenever a congregation is formally dissolved by the presbytery, or has become extinct by reason of the dispersal of its members, the abandonment of its work, or other cause, such property as it may have shall be held, used, and applied for such uses, purposes, and trusts as the presbytery may direct, limit and appoint, or such property may be sold or disposed of as the presbytery may direct, in conformity with the Constitution of the Presbyterian Church (U.S.A.).

15. Section G-4.0206(a) of the *Book of Order* provides:

A congregation shall not sell, mortgage, or otherwise encumber any of its real property and it shall not acquire real property subject to an encumbrance or condition without the written permission of the presbytery transmitted through the session of the congregation.

16. Section G-4.0206(b) of the *Book of Order* provides:

A congregation shall not lease its real property used for purposes of worship, or lease for more than five years any of its other real property, without the written permission of the presbytery transmitted through the session of the congregation.

17. Section G-4.0207 of the *Book of Order* provides:

The relationship to the Presbyterian Church (U.S.A.) of a congregation can be severed only by constitutional action on the part of the presbytery (G-3.0303b). If there is a schism within the membership of a congregation and the presbytery is unable to effect a reconciliation or a division into separate congregations within the Presbyterian Church (U.S.A.), the presbytery shall determine if one of the factions is entitled to the property because it is identified by the presbytery as the true church within the Presbyterian Church (U.S.A.). This determination does not depend upon which faction received the majority vote within the congregation at the time of the schism.

18. The *Book of Order* does not give any rights or responsibilities to the General Assembly or to its principal corporation, the A Corporation, regarding the property held by a local congregation or "session."

19. The A Corporation does not have a corporate ownership interest in, or corporate right to control or maintain, the property of Dardenne Presbyterian Church.

20. The right and responsibility to enforce and seek recognition of all property rights held by the Denomination with respect to the property titled in the name of Dardenne Presbyterian Church lies solely and wholly with the Presbytery of Giddings-Lovejoy.

22. The foregoing statements made by me are true. I am aware that if any of these statements are willfully false, I may be subject to punishment, for perjury or otherwise.

  
CAROLINE LAURIE GRIFFITH

1-20-2024

Subscribed and sworn before me, this 20<sup>th</sup> day of January, 2024.

  
Notary Public

Seal:

