

The Honorable Theresa Doyle  
Motion for Summary Judgment  
Hearing: Friday, March 17, 2017 @ 9:00 a.m.

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7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
8 IN AND FOR THE COUNTY OF KING

9 THE PRESBYTERY OF SEATTLE, a  
10 Washington nonprofit corporation; and  
11 THE FIRST PRESBYTERIAN CHURCH  
OF SEATTLE, a Washington nonprofit  
corporation,

12 Plaintiffs,

13 v.

14 JEFF SCHULZ and ELLEN SCHULZ, as  
15 individuals and as the marital community  
comprised thereof,

16 Defendants.  
17

No. 16-2-03515-9 SEA  
No. 16-2-23026-1 SEA  
Consolidated

ORDER GRANTING  
PLAINTIFFS' AMENDED MOTION  
FOR SUMMARY JUDGMENT IN  
*PRESBYTERY II*; DECLARATORY  
JUDGMENT

~~[PROPOSED]~~

18 This matter came before the Court on Plaintiffs' Amended Motion for Summary  
19 Judgment in *Presbytery II* (the "motion"). Plaintiffs Presbytery of Seattle and First  
20 Presbyterian Church of Seattle ("plaintiffs") requested summary judgment on the lone  
21 cause of action in their complaint and dismissal of the two counterclaims asserted by  
22 defendants Jeff and Ellen Schulz ("defendants"). The Court has considered the pleadings,  
23 the motion, and the following materials submitted with the motion:

24 Declaration of Neil J. Beaton in Support of Plaintiffs' Amended Motion for  
25 Summary Judgment in *Presbytery II*, with exhibits;

ORDER GRANTING PLAINTIFFS'  
AMENDED MOTION FOR SUMMARY  
JUDGMENT; DECLARATORY JUDGMENT - I  
500231097 v4

ORIGINAL

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2 Declaration of Shelley M. Dahl in Support of Plaintiffs' Amended Motion for  
3 Summary Judgment in *Presbytery II*, with exhibits;

4 Declaration of William A. Longbrake in Support of Plaintiffs' Amended Motion  
5 for Summary Judgment in *Presbytery II*, with exhibits;

6 Declaration of Scott Lumsden in Support of Plaintiffs' Amended Motion for  
7 Summary Judgment in *Presbytery II*, with exhibits; and

8 Declaration of Robert B. Mitchell in Support of Plaintiffs' Motion for Summary  
9 Judgment in *Presbytery II*, with exhibits.

10 The Court has also considered Defendants' Opposition to Amended Motion for Summary  
11 Judgment and the following evidence submitted with defendants' opposition:

12 Declaration of Jeff Schulz in Support of Opposition to Plaintiffs' Amended  
13 Motion for Summary Judgment, with exhibits;

14 Declaration of Ellen Schulz in Support of Opposition to Plaintiffs' Amended  
15 Motion for Summary Judgment, with exhibits;

16 Declaration of David L. Martin in Support of Defendants' Opposition to Motion  
17 for Summary Judgment, with exhibits;

18 Declaration of George Norris in Support of Defendants' Opposition to Motion for  
19 Summary Judgment, with exhibits;

20 Declaration of Liz Cedergreen in Support of Defendants' Opposition to Motion for  
21 Summary Judgment;

22 Declaration of Nathan Orona in Support of Defendants' Opposition to Motion for  
23 Summary Judgment;  
24  
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1 Declaration of Kathy Ostrom in Support of Defendants' Opposition to Motion for  
2 Summary Judgment; and

3 Declaration of Lindsey McDowell in Support of Defendants' Opposition to  
4 Motion for Summary Judgment.

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6 The Court has considered as well Plaintiffs' Reply in Support of Their Amended Motion  
7 for Summary Judgment in *Presbytery II*, and the following evidence submitted with that  
8 reply:

9 Second Declaration of Neil J. Beaton in Support of Plaintiffs' Amended Motion  
10 for Summary Judgment in *Presbytery II*, with exhibit;

11 Second Declaration of Shelley M. Dahl in Support of Plaintiffs' Amended Motion  
12 for Summary Judgment in *Presbytery II*, with exhibits; and

13 Second Declaration of Scott Lumsden in Support of Plaintiffs' Amended Motion  
14 for Summary Judgment in *Presbytery II*, with exhibits.

15 The Court has considered the following additional materials:

16 Additional case law submitted by  
17 defendants.

18 The Court held oral argument in open court on March 17, 2017.

19 Based upon the foregoing, the Court GRANTS the motion. There exists no  
20 genuine issue of fact that is material to plaintiffs' request for declaratory relief, and  
21 plaintiffs are entitled to judgment as a matter of law. Summary judgment is therefore  
22 granted for plaintiffs. There exists no genuine issue of fact that is material to defendants'  
23 counterclaims for breach of contract and violation of RCW 49.52.050, and plaintiffs are  
24 entitled to judgment as a matter of law on defendants' counterclaims. Summary judgment  
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1 is therefore granted to plaintiffs with respect to defendants' counterclaims, and  
2 defendants' counterclaims are dismissed in their entirety with prejudice.

3 The Court enters the following declaratory judgment:

4 1. The Presbyterian Church (U.S.A.) is a hierarchical church in which the  
5 determinations of Seattle Presbytery, through its Administrative Commission for First  
6 Presbyterian Church of Seattle (the "Administrative Commission"), are conclusive and  
7 binding on the session, trustees, and congregation of First Presbyterian Church of Seattle  
8 ("First Presbyterian").

9 2. As previously determined by this Court in Case No. 16-2-03515-9 SEA,  
10 the Administrative Commission now acts as the session and as the trustees of First  
11 Presbyterian.

12 3. The findings and rulings of the Administrative Commission contained in  
13 the First Supplemental Report of the Administrative Commission for First Presbyterian  
14 Church of Seattle (August 25, 2016) are conclusive and binding in all determinations of  
15 church policy and governance related to First Presbyterian.

16 4. The Severance Agreement between Jeff Schulz and First Presbyterian  
17 dated November 10, 2015, and the Severance Agreement between Ellen Schulz and First  
18 Presbyterian dated November 10, 2015, (together the "Severance Agreements") are  
19 invalid, inapplicable, and unenforceable.

20 5. The Severance Agreements are invalid because they constitute a change in  
21 the terms of call for Jeff Schulz and Ellen Schulz and, as such, had to be approved by both  
22 the congregation of First Presbyterian and Seattle Presbytery. The former leaders of First  
23 Presbyterian failed to request or to obtain the approval of either the congregation or the  
24 presbytery, so the Severance Agreements never came into effect.  
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1           6.     The Severance Agreements are inoperative because Jeff and Ellen Schulz  
2 terminated their pastoral relationships when they renounced the jurisdiction of the  
3 Presbyterian Church (U.S.A.) in December 2015. The employment of Jeff and Ellen  
4 Schulz by First Presbyterian ceased effective December 16, 2015.

5           7.     The Severance Agreements presume conditions that have not and cannot be  
6 fulfilled because Jeff and Ellen Schulz, through their renunciation of jurisdiction, ceased  
7 to serve in good faith and in good standing as pastors of First Presbyterian.

8           8.     The Severance Agreements purport to replace the standards of pastoral  
9 conduct in the *Book of Order* of the Presbyterian Church (U.S.A.) with a “good cause”  
10 standard for terminating the pastorates of Jeff and Ellen Schulz. The Administrative  
11 Commission determined that this is improper ~~but that, even if the “good cause” standard~~  
12 ~~applies, First Presbyterian would be entitled to terminate Jeff and Ellen Schulz under the~~  
13 ~~Severance Agreements without liability.~~


14           9.     ~~Even if the findings of the Administrative Commission could be ignored,~~  
15 ~~the “good cause” standard for termination is satisfied because Jeff and Ellen Schulz~~  
16 ~~committed “a violation of law other than for minor traffic infraction,” as provided in~~  
17 ~~paragraph 4(d) of the Severance Agreements, and engaged in “[m]isconduct in the~~  
18 ~~performance of [their] duties and responsibilities or conduct that would be likely to cause~~  
19 ~~financial or reputational detriment to [them] or [First Presbyterian],” as provided in~~  
20 ~~paragraph 4(e) of the Severance Agreements.~~

21           10.    Jeff and Ellen Schulz have no rights under the Severance Agreements.

22           11.    First Presbyterian has no obligation to Jeff or Ellen Schulz under the  
23 Severance Agreements.

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SO ORDERED this 22 day of March 2017.

  
The Honorable Theresa Doyle  
KING COUNTY SUPERIOR COURT JUDGE

Presented by:

K&L GATES LLP

By

  
Robert B. Mitchell, WSBA #10874  
Peter A. Talevich, WSBA #42644

Attorneys for Plaintiffs

MILLS MEYERS SWARTLING

By

David D. Swartling, WSBA #6972

Attorneys for Plaintiffs

Approved as to Form; Notice of  
Presentation waived:

FRANK FREED SUBIT & THOMAS

By

Michael Subit, WSBA #29189

Attorneys for Defendants

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