

The Complex Relationship Between a Hierarchical Denomination and Its Local Churches

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In 1871, the U.S. Supreme Court established the basic guidelines for when and how secular courts are to resolve disputes within religious organizations. Recognizing that some congregations are “strictly congregational or independent” and generally governed by a majority of their members, the court focused primarily on those which are “part of a large and general organization of some religious denomination” with which they are “more or less intimately connected by religious views and ecclesiastical government.” *Watson v. Jones*, 13 Wall (80 US) 679, 726 (1871).

Watson’s broad classification of churches as either congregational or hierarchical does not encompass the specific, nuanced realities of a local church’s multifaceted relationship with a denomination, such as the genesis and history of the relationship; the extent of ecclesiastical control exercised by the denomination over the local church; the doctrinal and governing documents of the denomination and the local church; as well as relevant governing statutes and legal precedent. Needless to say, “more or less” leaves lots of room for play.



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When intra-church disputes arise in hierarchical church bodies, the First Amendment and the Ecclesiastical Abstention Doctrine sometimes require secular courts to abstain from becoming involved, deferring instead to the denomination’s highest judicatory (ruling authority). See, e.g., Barry Black and Jonathan Robert Nelson, “When Can Courts Decide Disputes Between Local Churches and Their Denominations?”, *New York Law Journal* (Aug. 29, 2019).

The drastic judicial step of abstention—sometimes involving disputes over properties worth

multiple millions of dollars—should be taken only if the requisite relationship exists. But denominational relationships with local church affiliates can be hard for courts to assess. It is therefore imperative to examine more closely the formation and nature of such affiliations.

The Process of Affiliation

As a threshold matter, a court presented with a dispute between a denomination and a local church, commonly involving property rights, may need to consider whether there is in fact a relationship between the two. If there is, the court would then examine whether it must abstain or whether it can resolve the dispute by applying neutral principles of law to the various rules governing the denominational relationship with the local church.

Like traditional corporate relationships, church corporations affiliate by agreement; the elements of contract formation apply, such as *quid pro quo*, offer, acceptance, writings between the parties, and other governing documents. The courts have found evidence of such a contractual relationship by examining, among other documents, certificates of affiliation, denominational constitutions, and local church bylaws. The courts have also considered equitable principles, such as the extent to which either party has benefitted from or provided benefit to the other.

In New York and a number of other states, statutes play a key role. New York's Religious Corporations Law sets forth, often with elaborate precision, the relationship between denominations and their local affiliates. For example, RCL Section 433 provides that Assemblies of God local churches "have the right of self government," though they are ecclesiastically

subordinate to the church's spiritual hierarchy. Each such local church has "the power to choose, call or dismiss its minister, establish the minister's salary, elect its trustees and other officials, and transact all other business pertaining to its life as a local unit." In contrast, RCL Section 91 states that all actions by a local Catholic parish are invalid "without the sanction of the archbishop or bishop of the diocese to which such church belongs."

Whether a local church belongs, or is subordinate, to a denomination is a threshold question to be determined by the application of neutral principles of law. Each party can provide to the court evidence of such affiliation or the absence thereof. It is worth reiterating: even religious documents are to be examined, not for the purpose of assessing their religious doctrines, but for their secular evidentiary value establishing the particulars of affiliation.

When Courts Must Abstain and When they Must Rule

The Ecclesiastical Abstention Doctrine prohibits secular courts from becoming involved in *religious* questions. As the *Watson* court explained so long ago, "[r]eligious organizations come before us in the same attitude as other voluntary associations for benevolent or charitable purposes, and their rights of property, or of contract, are equally under the protection of the law, and the actions of their members subject to its restraints." The law is the law, and even religious organizations must comply. However, said the Court, "whenever the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal

tribunals must accept such decisions as final, and as binding on them, in their application to the case before them.” *Watson* at 714, 727.

A careful reading of *Watson* reveals that courts *are obliged* to decide secular matters by general principles governing all corporations. The High Court later formally sanctioned “neutral principles of law” as a means of judicial scrutiny of disputes within religious organizations. Noting its many advantages, the court observed that the neutral principles approach is certainly not “wholly free of difficulty.” *Jones v. Wolf*, 443 U.S. 595 (1979).

The neutral principles method supplements and clarifies the rule first set forth in *Watson*: while courts *may* not become in any way involved with ecclesiastical questions, they *must* apply neutral principles of law to resolve disputes within religious organizations, even if that means examining religious documents or rites.

As the *Jones* court stated, “[t]he neutral-principles method [] requires a civil court to examine certain religious documents, such as a church constitution, for language of trust in favor of the general church. In undertaking such an examination, a civil court must take special care to scrutinize the document in purely secular terms, and not to rely on religious precepts.”

Accordingly, New York’s Court of Appeals sanctioned a secular court’s review of church documents: “[i]n applying neutral principles, the focus is on the language of the deeds, the terms of the local church charter, the state statutes governing the holding of church property, and the provisions in the constitution of the general church concerning the ownership

and control of church property.” *First Presbyterian Church v. United Presbyterian Church*, 62 N.Y.2d 110, 122 (1984).

Secular courts can, and routinely do, examine religious documents in an effort to make determinations based upon neutral principles of law. In *Avitzur v. Avitzur*, 58 N.Y.2d 108 (1983), the Court of Appeals sanctioned a secular court’s reliance upon a ketubah, a purely ecclesiastical document, written in Hebrew-Aramaic, which is executed as part of a Jewish marriage ceremony. The court held that “[t]he fact that the agreement was entered into as part of a religious ceremony does not render it unenforceable,” and just because “the obligations undertaken by the parties to the Ketubah are grounded in religious belief and practice does not preclude enforcement of its secular terms.”

Respective Rights and Disaffiliating

Once a court has determined that abstention is not required, it can finally get down to the business of determining, by applying neutral principles of law and never considering religious questions, the relative rights of the parties, including whether the local church has disaffiliated from the denomination. As the Court of Appeals noted, “even though members of a local group belong to a hierarchical church, they may withdraw from the church and claim title to real and personal property, provided that they have not previously ceded the property to the denominational church.” *First Presbyterian Church*, 62 N.Y.2d at 120.

The parties’ respective rights, seen through the prism of hierarchical control, are determined by assessing the nature of a denominational relationship. In a dispute between a local church affiliate and the church body with

which it had been affiliated, the Third Department observed that its “mere involvement” in the denomination’s “ecclesiastical affairs” did not necessarily subject it “to the control of that body insofar as its property matters may be concerned. Acknowledgment of a higher church authority may be limited to ecclesiastical authority and therefore not inconsistent with local autonomy in property matters.” Indeed, held the court, it “is not only the extent of the involvement which must be studied but the extent to which the parent body controls the affairs of the local church.” *N.Y. Dist. of Assemblies of God v. Calvary Assembly of God*, 64 A.D.2d 311, 314, 315 (3d Dep’t 1978).

Clarifying Denomination-Church Relationships

Given the challenges of retrospectively scrutinizing the nature of denominational relationships, not to mention the heavy financial and spiritual costs of litigation, denominations would be well advised to consider reviewing and revising their governing documents. The details of the relationship, including the nature of the denomination’s spiritual and temporal control, the respective rights of the denomination and its local church affiliates—property rights in particular—and the specific manner and conditions of disaffiliation, should be spelled out with clarity.

The parties should be made to fully understand what they are getting into, and clearly assent to the terms and conditions in writing. Since denominational constitutions are

intended to set forth rules of general application, if particular terms of affiliation are permitted for individual congregations, denominational documents should so indicate and designate how variations from the general rules should be documented. From the commencement of the relationship until its cessation, the parties as corporations should be guided by common legal principles. After all, *Watson* requires that any disputes that might arise “must be determined by the ordinary principles which govern voluntary associations.”

Conclusion

Watson noted its preference for church disputes to be determined within the church, without the need for secular courts to become involved. When judicial involvement becomes necessary, complex and highly nuanced rules must be implemented in order to determine whether the court must abstain and, if not, how it should resolve the dispute. Yet much of this can be avoided in the first place if the parameters of the relationship are spelled out clearly and transparently, and the parties agree to fully accept them.

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