

Congregation of H.O.P.E.-L.I.F.E. Noah's v Ramirez
2013 NY Slip Op 30842(U)
April 18, 2013
Supreme Court, New York County
Docket Number: 114662/09
Judge: Saliann Scarpulla
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ANNEX 4/24/2013
**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: Soliman Scarpulla
Justice

PART 19

Index Number : 114662/2009
CONGREGATION OF H.O.P.E.
vs.
RAMIREZ, RICHARD
SEQUENCE NUMBER : 008
DISMISS

INDEX NO. _____
MOTION DATE _____
MOTION SEQ. NO. _____

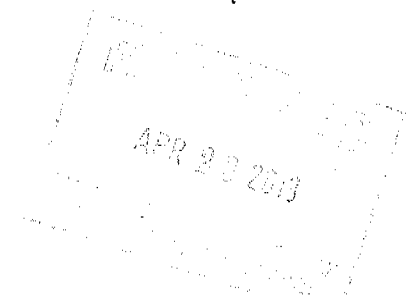
The following papers, numbered 1 to _____, were read on this motion to/for _____

Notice of Motion/Order to Show Cause — Affidavits — Exhibits _____ | No(s). _____

Answering Affidavits — Exhibits _____ | No(s). _____

Replying Affidavits _____ | No(s). _____

Upon the foregoing papers, it is ordered that this motion is determined in
accordance with the accompanying decision/order.



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MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

Dated: 4/18/13

(Signature), J.S.C.

- 1. CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER
- 3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER
- DO NOT POST FIDUCIARY APPOINTMENT REFERENCE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: CIVIL TERM: PART 19

-----X
CONGREGATION OF H.O.P.E.-L.I.F.E. NOAH'S
ARK CHURCH, INC.,

Plaintiff,

Index No.: 114662/09
Submission Date: 12/19/12

- against-

REVEREND RICHARD RAMIREZ AND ROBERT
M. MANNERS, AND H.O.P.E.-L.I.F.E. NOAH'S
ARK CHURCH, INC.,

DECISION AND ORDER

Defendants.

-----X
For Plaintiff:
Chadbourne & Parke LLP
30 Rockefeller Plaza
New York, NY 10112

For Defendant:
Law Office of Matthew S. Porges, Esq.
641 President Street, Suite 205
Brooklyn, NY 11215

Papers considered in review of this motion to dismiss:

Notice of Motion	1
Aff in Opp	2
Reply	3

HON. SALIANN SCARPULLA, J.:

In this action challenging the election of a pastor, defendant H.O.P.E.-L.I.F.E.

Noah's Ark Church, Inc. ("H.O.P.E.") moves to dismiss the complaint as asserted against
all defendants.

Congregation of H.O.P.E.-L.I.F.E. Noah's Ark Church, Inc. ("Congregation")
commenced this action alleging that H.O.P.E.-L.I.F.E. Noah's Ark Church pastor Richard
Ramirez ("Ramirez") and assistant pastor Robert Manners ("Manners") (1) orchestrated
the appointment of Ramirez as pastor to control the church and the real estate owned by

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the church in 2007 after the death of the church's founder and pastor; (2) disenfranchised the existing members of the congregation; and (3) created by-laws to eradicate any future challenge to Ramirez's position as pastor. Congregation sought a judgment declaring the by-laws null and void, and alleged causes of action for fraud and negligent misrepresentation.

H.O.P.E. then moved to intervene in this action, arguing that plaintiff Congregation does not represent the church, rather, the subject church operates under the name "H.O.P.E.-L.I.F.E. Noah's Ark Church, Inc." This court granted the motion in an order dated July 12, 2012.¹

H.O.P.E. now moves to dismiss the complaint as asserted against all defendants, arguing that (1) Congregation is a non-existent entity which has no standing to sue; (2) Congregation's claim brought, by implication, pursuant to New York Not-For-Profit Law §618 is barred by the applicable statute of limitations, and in any event, the service requirement of the statute was not met; and (3) this action infringes upon the First Amendment in that it seeks to have a religious issue resolved in a secular court.

In opposition, Congregation first argues that it has standing to sue, in that it is comprised of the original members of the church. It next argues that it did not bring any claim pursuant to New York Not-For-Profit Law §618, in that it did not seek to confirm

¹ Prior to the motion to intervene, Congregation had moved for partial summary judgment on its declaratory judgment cause of action, and defendants had cross-moved for summary judgment dismissing the complaint. In an order entered June 8, 2011, this court denied both motions.

or invalidate an election, rather, it sought a judgment declaring the church's by-laws null and void, as well as monetary damages. In addition, Congregation maintains that its claims do not require the court to resolve a religious dispute, in violation of the First Amendment, rather, Congregation is seeking relief based on New York Religious Corporations Law ("RCL") and this action only requires the application of neutral principles of law.

Discussion

The court first finds that contrary to H.O.P.E.'s contention, Congregation's claims do not seek to have a religious issue resolved in a secular court. *See generally Paracha v Adulaleem*, 2011 NY Slip Op 33310(U) (Sup. Ct. Qns. Co., July 14, 2011). In fact, this court, in its June 8, 2011 order specifically held that "the resolution of this matter involves only neutral principles of law as set forth in the RCL." The allegations set forth in the complaint relate only to violations of the RCL. As this court previously explained, actions dealing solely with the applicability of the RCL "d[o] not violate the First Amendment prescription that religious bodies be left free to decide church matters for themselves, uninhibited by State interference, because the [issue] can be decided on the basis of statutory interpretation and common-law precedent without reference to matters of religious belief or dogma." *Morris v. Scribner*, 69 N.Y.2d 418, 411 (1987). Even though, as H.O.P.E. contends, this court's June 8, 2011 decision was made in the context of a partial summary judgment motion pertaining to the declaratory judgment cause of

action, it is the law of the case. *See generally Brownrigg v. New York City Hous. Auth.*, 29 A.D.3d 721 (2nd Dept. 2006).

Second, contrary to H.O.P.E.'s contentions, Congregation did not, by implication or otherwise, bring any claims pursuant to N.Y. Not-for-Profit Corporations Law §618. Therefore, H.O.P.E.'s claims that Congregation did not comply with certain requirements set forth in that statute are immaterial.

Finally, while H.O.P.E. properly maintains that Congregation is not a formal entity, such does not preclude those allegedly aggrieved members of Congregation from pursuing their claims. Therefore, Congregation is granted leave to amend the caption to reflect each member who was allegedly aggrieved by H.O.P.E.'s actions as set forth in the complaint, and to remove Congregation of H.O.P.E.-L.I.F.E. Noah's Ark Church, Inc. as plaintiff.

In accordance with the foregoing, it is hereby

ORDERED that defendant H.O.P.E.-L.I.F.E. Noah's Ark Church, Inc.'s motion to dismiss the complaint as asserted against all defendants is denied; and it is further

ORDERED that within 30 days of the date of this order, plaintiff Congregation of H.O.P.E.-L.I.F.E. Noah's Ark Church, Inc. is directed to amend the caption as set forth above and serve the amended complaint on all parties, the County Clerk (Room 141B) and the Clerk of the Trial Support Office (Room 158).

This constitutes the decision and order of the court.

Dated: New York, New York
April 17, 2013

FILED

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L.S.C.

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