

**Deutsche Evangelisch Lutherische Zions Gemeinde v  
Evangelical Lutheran Church in Am.**

2023 NY Slip Op 32846(U)

August 16, 2023

Supreme Court, Kings County

Docket Number: Index No. 514900/2021

Judge: Robin S. Garson

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At an IAS Term, Part 75 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 15<sup>th</sup> day of August, 2023.

P R E S E N T:

HON. ROBIN S. GARSON,  
Justice.

-----X  
DEUTSCHE EVANGELISCH LUTHERISCHE ZIONS  
GEMEINDE (GERMAN EVANGELICAL LUTHERAN ZION  
CONGREGATION),

Plaintiff,

-against-

Index No.: 514900/2021

Mot. Seq. Nos.: 1, 2

EVANGELICAL LUTHERAN CHURCH IN AMERICA,  
and METROPOLITAN NEW YORK SYNOD OF THE  
EVANGELICAL LUTHERAN CHURCH IN AMERICA,

Defendants.

-----X  
The following e-filed papers read herein:

NYSCEF Doc Nos.:

Notice of Motion/Order to Show Cause/  
Petition/Cross Motion and  
Affidavits (Affirmations) Annexed \_\_\_\_\_  
Opposing Affidavits (Affirmations) \_\_\_\_\_  
Affidavits/ Affirmations in Reply \_\_\_\_\_  
Other Papers: Memoranda of Law

14-20                      32-38  
28-29                      42-46  
31                              50  
27                              47, 51

Upon the foregoing papers, in this action by plaintiff Deutsche Evangelisch Lutherische Zions Gemeinde (“plaintiff”) against defendants the Evangelical Lutheran Church In America (the “ELCA”) and the Metropolitan New York Synod of the Evangelical Lutheran Church In America (the “MNYS”) (collectively, “defendants”), the MNYS moves (mot. seq. 1) for an order, pursuant to CPLR 3211 (a) (1), (2) and (7)

dismissing plaintiff's complaint for lack of subject matter jurisdiction, based on documentary evidence, and failure to state a claim upon which relief can be granted. The ELCA also moves (mot. seq. 2) for an order, pursuant to CPLR (a) (2) and (7) dismissing plaintiff's complaint for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted.

### **Facts and Procedural Background**

Plaintiff is a German Lutheran church located in Brooklyn that was incorporated in 1856 under the Religious Corporations Laws of the State of New York as they existed at the time. Plaintiff is governed by a constitution that includes provisions that grant it the right to change denominations and separate itself from its synod and join another evangelical Lutheran synod that adheres to its Confession of Faith whenever the synod becomes entangled in false doctrine or makes demands which are contrary to the doctrine of the Lutheran Church, the charter of the church's congregation or the church's constitution. Plaintiff is the owner in fee simple absolute of a valuable Sanctuary ("Sanctuary Property") and parsonage ("Parsonage Property") both located in Brooklyn. According to plaintiff, no written instrument subsequent to its deeds, recorded or unrecorded, has created any other relevant interest in either of these properties. Plaintiff alleges that its autonomy and rights to its real property were established in 1856 by its certificate of incorporation and subsequently by the recording of the deeds to its real property. Plaintiff alleges that its rights to change denominations and its property rights, which began in 1856, were and continue to be governed by the Religious Corporations Law of 1813, "An Act to provide for the Incorporation of Religious Societies" (the "Law

of 1813”), which was established by the New York State Legislature. This law, plaintiff contends, vested complete power over its properties, real and personal, in the hands of its corporate trustees, and empowered it to change its denominational affiliation. Plaintiff maintains that these powers are essential elements of the property rights that it has possessed since its incorporation in 1856. According to plaintiff, no representative of plaintiff has ever signed any written instrument that conveyed to any other entity or person any rights over its real and personal property or that diminished plaintiff’s right to change its denomination. Plaintiff states that its congregation has never consented, through reincorporation, corporate resolution, or otherwise, and no representative of plaintiff has ever consented on its behalf, to any change of New York State law that would have acted to diminish plaintiff’s autonomy or its rights to its real or personal property or to confer rights therein in favor of any individual or entity, including the defendants.

Plaintiff became a member of the ELCA and the MNYS in 1988 when the ELCA was founded due to the merger of previous Lutheran denominations including the Lutheran Church in America (the “LCA”), of which plaintiff was a member at the time. Plaintiff alleges that when it became a member of the ELCA and the MNYS, it was not required to adopt the ELCA’s model constitution for congregations. Plaintiff further alleges that it never expressly or implicitly consented to vest the ELCA or the MNYS with any powers over its property, autonomy, self-government or continued existence, including powers that defendants possess under their respective constitutions to refuse to permit plaintiff to terminate its relationship with them without the approval of the

MNYS's Synod Council, to dissolve it as an extinct congregation, to transfer control of its property to loyal congregation members, to impose synodical administration upon it, to replace its trustees, and to take control of, manage, and convey ownership of its property.

Plaintiff alleges that in or about 1995, the ELCA modified its doctrinal and theological positions to accept homosexuality among church members and clergy. At the time, plaintiff informed the ELCA and the MNYS that these changes were inconsistent with its religious beliefs. In 1996, the MNYS informed plaintiff that its constitution was inconsistent with the MNYS's requirements for congregational constitutions. Plaintiff refused to amend its constitution to conform to the MNYS's requirements. In or about 1998, to protest the defendants' liberal stances on homosexuality in the church and in society, and to avoid contributing to causes it did not support or agree with, plaintiff ceased to contribute to the MNYS's benevolence budget and began to distribute benevolences separately from the defendants. In 2006, the pastor of plaintiff's congregation sent a declaration to the ELCA and the MNYS in opposition to steps they had taken to modify and liberalize the stance they took toward sexuality and marriage. In 2008, plaintiff's congregation voted to terminate its relationship with the ELCA and the MNYS. In 2009, the plaintiff's congregation voted unanimously to ratify its 2008 vote to terminate its relationship with defendants. Since 2008, plaintiff has not participated in any activities of the ELCA or the MNYS.

In 2021, plaintiff called for a new pastor who is a member of the Lutheran Church, Missouri Synod ("LCMS"), which is a Lutheran denomination that is separate and

independent of the ELCA and the MNYS. The local bishop of the LCMS placed a courtesy call to the bishop of the MNYS to discuss plaintiff's decision to call its new pastor from the LCMS and was told by the bishop of the MNYS that plaintiff is still a member of the ELCA and the MNYS. Plaintiff alleges that by informing LCMS that it (plaintiff) was still a member church of the ELCA and the MNYS, the ELCA was claiming that it had power and responsibility to provide a new pastor to plaintiff. Plaintiff claims that this statement was falsely made to deter LCMS from dealing with plaintiff and to make it difficult for plaintiff to act independently of the defendants in recruiting and calling their next pastor. According to plaintiff, the statement made by the MNYS bishop was made while he was acting as an agent of the ELCA and the MNYS and intended to interfere with plaintiff's contractual relationship with LCMS. Plaintiff also alleges that the defendants maintain web pages on which they falsely assert that plaintiff is a member of their organizations. Plaintiff contends that because its practices and statement of beliefs differ significantly from the defendants, especially on the issue of same-sex marriages and the ordination of homosexuals to sacred ministry in the Christian Church, the ELCA's and the MNYS's false statements concerning its membership are defamatory, as they injure its reputation and dissuade prospective new church members from joining or otherwise associating or dealing with it.

On or about June 18, 2021, plaintiff commenced this action with the filing of a summons and verified complaint, asserting six causes of action against defendants: determination of claims to real property (counts I and II), declaratory judgment (counts III and IV) and defamation (counts V and VI). By stipulation dated July 26, 2021, the

ELCA was granted an extension of time to respond to the complaint until September 7, 2021. By stipulation dated August 6, 2021, the MNYS's time to interpose an answer to the complaint, or otherwise move, was extended until September 14, 2021. On or about September 13, 2021, the MNYS moved to dismiss the complaint pursuant to CPLR 3211 (a) (1), (2) and (7). On or about June 23, 2022, the ELCA moved to dismiss the complaint pursuant to CPLR 3211 (a) (2) and (7).

### Discussion

In determining a motion to dismiss pursuant to CPLR 3211 (a) (7), a court must “accept the facts as alleged in the complaint as true, accord plaintiff the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory” (*Kolchins v Evolution Mkts., Inc.*, 31 NY3d 100, 105-106 [2018] quoting *Leon v Martinez*, 84 NY2d 83, 87-88 [1994]; see also *Strujan v Kaufman & Kahn, LLP*, 168 AD3d 1114, 1115 [2d Dept 2019]; *Gorbatov v Tsirelman*, 155 AD3d 836, 837 [2d Dept 2017]). Allegations consisting of bare legal conclusions must not be considered (see *Connaughton v Chipotle Mexican Grill, Inc.*, 29 NY3d 137, 141-142 [2017]). “Whether the complaint will later survive a motion for summary judgment, or whether the plaintiff will ultimately be able to prove its claims, of course, plays no part in the determination of a pre-discovery CPLR 3211 motion to dismiss” (*Gorbatov*, 155 AD3d at 837, quoting *Shaya B. Pacific, LLC v Wilson, Elser, Moskowitz, Edelman & Dicker, LLP*, 38 AD3d 34, [2d Dept 2006]).

A court may consider affidavits or deposition testimony submitted by plaintiff to remedy any defects in the complaint, but not for the purpose of determining whether

there is evidentiary support for the pleading (*see Leon*, 84 NY2d at 88; *Nonnon v City of New York*, 9 NY3d 825, 827 [2007]; *Sokol v Leader*, 74 AD3d 1180, 1181 [2d Dept 2010]). “If the court considers evidentiary material, the criterion then becomes whether the proponent of the pleading has a cause of action, not whether he has stated one” (*Sokol*, 74 AD3d at 1181-1182; *see also Hendrickson v Philbor Motors, Inc.*, 102 AD3d 251, 257-258 [2d Dept 2012]). “[U]nless it has been shown that a material fact as claimed by the pleader to be one is not a fact at all and unless it can be said that no significant dispute exists regarding it, again dismissal should not eventuate” (*Guggenheimer v Ginzburg*, 43 NY2d 268, 275 [1977]).

“A motion pursuant CPLR 3211(a) (1) to dismiss the complaint on the ground that the action is barred by documentary evidence may be granted only where the documentary evidence utterly refutes the plaintiff’s factual allegations, thereby conclusively establishing a defense as a matter of law” (*Ruby Falls, Inc. v Ruby Falls Partners, LLC*, 39 AD3d 619, 619 [2d Dept 2007]).

The defendants herein also seek to dismiss plaintiff’s complaint pursuant to CPLR 3211 (a) (2) on the ground that this court has no subject matter jurisdiction. In support of their respective motions to dismiss, the defendants primarily rely upon the First Amendment to the United States Constitution (“U.S. Constitution”), applicable to the states by the Fourteenth Amendment, which prohibits the making of “law[s] respecting an establishment of religion, or prohibiting the free exercise thereof” (U.S. Const. 1<sup>st</sup>, 14<sup>th</sup> Amends.). “The First Amendment forbids civil courts from interfering in or determining religious disputes, because there is substantial danger that the state will become entangled

in essentially religious controversies or intervene on behalf of groups espousing particular doctrines or beliefs” (*Matter of Congregation Yetev Lev D’Satmar, Inc. v Kahana*, 9 NY3d 282, 286 [2007]). “Religious bodies are to be left free to decide church matters for themselves, uninhibited by state interference” (*Eltingville Lutheran Church v Rimbo*, 174 AD3d 856, 858 [2d Dept 2019]). Inasmuch as the U.S. Constitution limits judicial involvement in disputes raising religious concerns, courts are prohibited from resolving controversies which require consideration of religious doctrine (*see Avitzur v Avitzur*, 58 NY2d 108, 114 [1983]). Courts may, however, resolve church property disputes when the case can be decided solely upon the application of neutral principles of law, without reference to any religious principle (*see Matter of Congregation Yetev Lev D’Satmar, Inc.*, 9 NY3d at 286; *Eltingville Lutheran Church v Rimbo*, 174 AD3d at 858). Under this approach, the court must apply objective well-established principles of secular law to the issues and may rely on internal church governing documents, but only if those documents do not require the interpretation of ecclesiastical doctrine (*see Matter of Congregation Yetev Lev D’Satmar, Inc.*, 9 NY3d at 286; *First Presbyterian Church of Schenectady v United Presbyterian Church in the United States of America*, 62 NY2d 110, 119-120 [1984]). “[T]he 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” (*id.* at 122).

Here, this action stems from a longstanding religious dispute between plaintiff and the defendants regarding the acceptance of homosexuality in the Lutheran church. In the

complaint, plaintiff alleges that as far back as 2008, it has attempted to terminate its membership with defendants due to the schism. Plaintiff requests that this court employ neutral principles of law to determine that its membership with the ELCA, its denominational church, and the MNYS, its Synod, has been properly terminated and that these entities lack any authority to take control over its property. In addition, plaintiff asserts two defamation claims based on defendants' statements that it (plaintiff) is still one of their member churches.

Plaintiff asserts claims in the first and second causes of action under Article 15 of the Real Property Actions and Proceedings Law. Section 1501 of the law provides in relevant part:

“1. Where a person claims an estate or interest in real property... such person... may maintain an action against any other person, known or unknown, including one under disability as hereinafter specified, to compel the determination of any claim adverse to that of the plaintiff which the defendant makes, or which it appears from the public records, or from the allegations of the complaint, the defendant might make....

“2. Such action may be maintained, even though the defendant's claim appears to be invalid on its face, or the court may have to determine... any... question of fact or law upon which an adjudication of the adverse claims of the parties may depend”  
(Real Property Actions and Proceedings Law § 1501).

Plaintiff notes that defendants have been granted authority pursuant to the Religious Corporations Law and their respective constitutions to impose synodical administration whereby the MNYS could take title to its property. In its complaint, plaintiff seeks to prevent and guard against such action by having the court determine that the ELCA and

the MNYS lack any power over it specifically due to the circumstances of its incorporation and the terms of its church charter and constitution.

The MNYS's authority to impose synodical administration is derived from the ELCA constitution, its own constitution and the RCL. Section 9.61 (f) of the ELCA constitution grants Synods authority to impose synodical administration which includes the power of a Synod to take control of a local congregation's property pursuant to the Synod constitution. It provides: "The synod takes charge and control of the property of the congregation to hold, manage, and convey the same on behalf of the synod pursuant to § 13.24 of the synod constitution. The congregation shall have the right to appeal the decision to the next Synod Assembly" (ELCA Constitution § 9.61 [f], NYSCEF Doc No. 18). In addition to this provision, Section 13.24 of the MNYS constitution establishes the Synod's authority to impose synodical administration more fully:

"If any congregation of this synod has disbanded, or if the members of a congregation agree that it is no longer possible for it to function as such, or if it is the opinion of the Synod Council that the membership of a congregation has become so scattered or so diminished in numbers as to make it impractical for such a congregation to fulfill the purposes for which it was organized or that it is necessary for this synod to protect the congregation's property from waste and deterioration, the Synod Council, itself or through trustees appointed by it, may take charge and control of the property of the congregation to hold, manage and convey the same on behalf of this synod. The congregation shall have the right to appeal the decision to the Synod Assembly" (MNYS Constitution § 13.24, NYSCEF Doc No. 19).

Section 13.24 of the MNYS constitution has been codified into New York State law under the RCL (*see* Religious Corporations Law § 17-c [2] [a] [iii]). Plaintiff alleges in the complaint that the ELCA and the MNYS may attempt to impose synodical

administration because it has done so to a number of other local churches to obtain their property in order to pay their bills. While not explicitly stated therein, it is evident from the Complaint that plaintiff is also concerned that the ELCA and the MNYS might impose synodical administration upon it in order to resolve their longstanding religious disagreement. Relying on the Second Department's decision in *Eltingville Lutheran Church v Rimbo*, (174 AD3d 856 [2d Dept 2019]), plaintiff argues that it must act now to preserve its long-held rights which, it maintains, includes the right to sever from its denomination and to take its property with it.

In support of their motions to dismiss, defendants argue that this court lacks subject matter jurisdiction to hear the issues raised herein due to the religious nature of the dispute between the parties. Plaintiff, on the other hand, asserts that the neutral principles of law analysis can be employed to determine this dispute without regard to ecclesiastical matters. It argues that by examining the deeds to its Sanctuary Property and Parsonage Property, its charter, its constitution, the Law of 1813 in conjunction with the present-day Religious Corporations Law of New York State and the defendants' respective constitutions, this court can determine that defendants have no claim to its property.

Based upon a review of the parties' submissions, the court finds that the neutral principles of law approach cannot be applied to adjudicate plaintiff's property claims which directly call into question the authority that has been vested in the synod to impose synodical administration which would allow it to dissolve the church and take control over its property. As the Second Department has explained, "by uniting with a

denominational body, a local congregation consents to be bound by the ecclesiastical determinations of the denominational government, subject only to such appeals as the organism itself provides for” (*Eltingville Lutheran Church*, 174 AD3d at 858). By uniting with the ELCA and the MNYS, which plaintiff admits it did as a result of the merger of denominations in 1988, plaintiff has consented to the ELCA’s and MNYS’s broad ecclesiastical authority over it, which includes synodical administration. The MNYS’s power to impose synodical administration is far broader, however, than its authority to take control over a local church’s property upon its dissolution of the church. Plaintiff’s argument that it should not be subject to this authority because it does not want to lose its property ignores the inherent religious elements. In this regard, the decision to impose synodical administration over a church involves consideration by the Synod of such issues as church governance, religious doctrine and practice, scripture, and the spiritual well-being of the local church’s remaining members. Thus, it concerns subject matter with which this court is forbidden from entangling itself pursuant to the First Amendment. Indeed, synodical administration is an inherently religious matter although it incidentally concerns a local church’s property. Therefore, “[a] Synod’s determination to impose synodical administration on a local church is a nonjusticiable religious determination” (*Eltingville Lutheran Church*, 174 AD3d at 859). Whether the MNYS has rendered a decision to impose synodical administration or whether it reserves its power until such time as it determines that a church should be dissolved, this court cannot limit or deny this religious authority as it would usurp the power of the MNYS’s governing bodies to render religious decisions even when they impact a member church’s property.

Moreover, it would necessarily force this court to render a religious determination, which is strictly prohibited by the First Amendment. Accordingly, plaintiff's first and second causes of action are dismissed as this court lacks subject matter jurisdiction over these claims.

Plaintiff's third and fourth causes of action are for declaratory relief. In its third cause of action, plaintiff seeks a declaratory judgment that it has a right to change its religious affiliation based on the provisions of the Law of 1813 and that there has been no change in the law that would prohibit it from doing so, or that would limit its ownership of its real and personal property, or create any power in any denomination or ecclesiastical governing body to replace its trustees. Plaintiff also seeks a declaration that certain provisions of the RCL do not apply to it because it was incorporated under the Law of 1813 which, it maintains, continues to govern it.

Plaintiff's third cause of action must also be dismissed. Pursuant to Religious Corporations Law § 24, the provisions of the RCL are not applicable to churches incorporated prior to 1828 if the statute is inconsistent with the law as it existed at the time of incorporation, unless the church reincorporates after 1828 or the trustees determine by resolution that the provisions of the Religious Corporations Law shall apply (Religious Corporations Law § 24). Section 24 of the RCL provides in pertinent part:

“Any provision of this chapter shall not be deemed to apply to any church incorporated under any general or special law, prior to January first, eighteen hundred and twenty-eight, if such provision is inconsistent with or in derogation of any of the rights and privileges of such corporation as they existed under the law by or pursuant to which such corporation was formed, unless such corporation subsequent to such date, shall have lawfully reincorporated under

a law enacted since the first day of January, eighteen hundred and twenty-eight, or unless the trustees of such corporation shall, by resolution, determine that the provisions of this chapter applying to churches of the same denomination and to the trustees thereof shall apply to such church, and unless such resolution shall be submitted to the next ensuing annual meeting of such church, and ratified by a majority of the votes of the qualified voters present and voting thereon” (Religious Corporations Law § 24).

Here, plaintiff concedes that it was incorporated in 1856, well after January 1, 1828. Therefore, the provisions of the RCL that codify the powers of the ELCA and the MNYS to impose synodical administration and seize a local church’s property, as well as the provisions of the law that require churches, such as plaintiff, that were former members of the LCA to seek Synod Council approval to terminate their relationship with the ELCA or the MNYS, are applicable to it. Thus, this court lacks the power to grant the requested declaratory relief. Consequently, plaintiff’s third cause of action is dismissed for failure to state a claim upon which relief can be granted.

Plaintiff’s fourth cause of action is for a declaratory judgment that it (1) validly and effectively terminated its affiliation with defendants in 2008; and (2) that the courts of the State of New York shall not lend their powers to assist any attempt by the defendants to enforce the provisions of their constitutions against plaintiff or its property. Specifically, plaintiff seeks a declaration that it, by congregational vote in 2008 and 2009, terminated its relationship with defendants. The ELCA and the MNYS maintain that it is still a member church because the vote to terminate was invalid and plaintiff failed to follow the procedures provided for termination in their constitutions or the RCL. Section 9.62 (h) of the ELCA constitution contains provisions that concern when a local church

may terminate its relationship with the ELCA and the MNYS. It provides that, “Congregations which had been members of the Lutheran Church in America shall be required, in addition to complying with the foregoing provisions in 9.62, to receive synod approval before terminating their membership in this church” (ELCA Constitution § 9.62 [h], NYSCEF Doc No. 18). In addition, this provision has been codified into New York State law under the RCL (*see* Religious Corporations Law § 17-c (2) [vii]).

Plaintiff has stated that it is a former member of the Lutheran Church in America and was a member of that denomination when the merger of denominations occurred, which resulted in the creation of the ELCA in 1988. In order to resolve the dispute of whether plaintiff terminated its membership with defendants, this court would necessarily intrude into areas of church polity, religious doctrine, practice, and scripture in order to force the Synod to accept the votes taken by plaintiff’s congregation in 2008 and 2009 to terminate the relationship. Whether plaintiff remains a member church of the ELCA and the MNYS is more than just a mere associational question but a religious one. “It is well settled that membership issues such as those that are at the core of this case are an ecclesiastical matter” (*Matter of Congregation Yetev Lev D'Satmar, Inc., v Kahana*, 9 NY3d 282, 287-288). Furthermore, the Court of Appeals has explicitly forbidden the courts to resolve such membership disputes involving a local church and a denomination (*see First Presbyterian Church of Schenectady*, 62 NY2d 110, 117 [“To the extent that [plaintiffs’] complaint sought a declaration of their right to withdraw from the Presbytery, it was beyond the power of the court to grant that relief because the determination required an examination and interpretation of the authority of the Presbytery to permit or

prevent withdrawal of a local church”]). Here, this court would be forced to engage in a review of the policies and procedures for withdrawal of the ELCA and the MNYS, substituting its judgment for that of the adjudicatory bodies of the MNYS which action is prohibited by the First Amendment. Accordingly, plaintiff’s fourth cause of action for declaratory relief is dismissed due to lack of subject matter jurisdiction.

Lastly, the court finds that plaintiff’s fifth and sixth defamation causes of action are also nonjusticiable, as they cannot be resolved by the application of neutral principles of law. Rather, resolution of the issues raised by plaintiff’s defamation claims (i.e., plaintiff’s membership status in defendants’ organizations) “would necessarily involve an impermissible inquiry into religious doctrine or practice” (*Drake v Moulton Mem'l Baptist Church of Newburgh*, 93 AD3d 685, 686 [2d Dept 2012] quoting *Matter of Congregation Yetev Lev D'Satmar, Inc.*, 9 NY3d at 286-287; see *Sieger v Union of Orthodox Rabbis of U.S. & Can.*, 1 AD3d 180, 182 [1<sup>st</sup> Dept 2003]; *Mandel v Silber*, 304 AD2d 538 [2d Dept 2003] [plaintiff’s defamation claims dismissed where “[r]esolution of the parties' dispute would necessarily involve an impermissible inquiry into religious doctrine and a determination as to whether the plaintiff violated religious law”]). Accordingly, plaintiff’s defamation claims are hereby dismissed as this court lacks subject matter jurisdiction over them.

Accordingly, it is hereby

**ORDERED** that the Metropolitan New York Synod of the Evangelical Lutheran Church In America’s motion (mot. seq. no. 1) is granted and plaintiff’s entire complaint is hereby dismissed as against it; and it is further

**ORDERED** that the Evangelical Lutheran Church In America's motion (mot. seq. no. 2) is granted and plaintiff's entire complaint is hereby dismissed as against it.

Defendant shall file and serve a copy of this Order along with notice of entry on plaintiff within 20 days of the date of this Order.

The Court has considered the parties' remaining contentions and finds them to be without merit.

All relief not specifically granted herein has been considered and is denied.

This constitutes the decision, order and judgment of the Court.

Dated: August 16, 2023

ENTER,



J. S. C.

**HON. ROBIN S. GARSON**  
**A.J.S.C.**