

<b>E.G. v Coney Is. Congregation of Jehovah's Witnesses</b>
2024 NY Slip Op 31808(U)
May 21, 2024
Supreme Court, Kings County
Docket Number: Index No. 514194/2021
Judge: Joy F. Campanelli
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS:CVAP4M

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E.G.,

Plaintiff,

Index No.: 514194/2021

-against-

**DECISION AND ORDER**

CONEY ISLAND CONGREGATION OF JEHOVAH’S  
WITNESSES; WATCHTOWER BIBLE AND TRACT  
SOCIETY OF NEW YORK, INC.; THE GOVERNING  
BODY OF JEHOVAH’S WITNESSES; and CHRISTIAN  
CONGREGATION OF JEHOVAH’S WITNESSES,

Hon. Joy F. Campanelli, J.S.C.

Defendants.  
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The following e-filed papers read herein:

NYSCEF Nos.:

Notice of Motion/Order to Show Cause/ Petition/Cross Motion and Affidavits (Affirmations) Annexed _____	Seq. #2 24-27 _____
Opposing Affidavits (Affirmations) _____	42-43 _____
Affidavits/ Affirmations in Reply _____	44 _____
Other Papers: <u>Affidavits/Affirmations in Support</u> _____	_____

In this CVA matter, Plaintiff, a member of the Jehovah’s Witnesses, alleges abuse as a minor by John Pierre (hereinafter “Pierre”) a congregation elder who was appointed by Defendants. According to the Complaint, THE GOVERNING BODY OF JEHOVAH’S WITNESSES (hereinafter “THE GOVERNING BODY”) is the organizational head of the Jehovah’s Witnesses.

THE GOVERNING BODY move by Notice of Motion seq. 002 to dismiss Plaintiff’s complaint against it for lack of subject matter jurisdiction pursuant to CPLR 3211(a)(2); for lack of personal jurisdiction pursuant to CPLR 3211(a)(8) and for failure to state a claim pursuant to CPLR 3211(a)(7).

THE GOVERNING BODY argues, inter alia, that it is not an incorporated, jural entity and it cannot be sued. Defendant maintains that there are eight (8) individuals who serve on the GOVERNING BODY and none of the eight (8) individuals was a member of THE GOVERNING

BODY at the time the alleged sexual abuse occurred. Defendant dismisses Plaintiff's allegation that it is "at the very least an unincorporated association under New York law" as an unsupported legal conclusion. *Assuming arguendo* that Plaintiff's characterization is accurate, THE GOVERNING BODY argues Plaintiff does not meet the pleading requirements for an action against an unincorporated association. In addition, Defendant alleges that none of the current individual members of the unincorporated Defendant authorized or ratified the alleged wrongful conduct.

THE GOVERNING BODY contends that as its function is solely ecclesiastical, the claims against it constitute an inquiry into religious canon law that the First Amendment prohibits this Court from entertaining. (*See Serbian E. Orthodox Diocese v. Milivojevich*, 426 US 696 (1976); *see also In the Matter of Congregation Yetev Lev D'Satmar, Inc. v. Kahana*, 31 AD3d 541 [2nd Dept 2006]).

In opposition, Plaintiff argues, *inter alia*, that THE GOVERNING BODY is a jural entity that can be sued, and its liability is not limited by its current members as unincorporated associations can be held liable for negligence based on acts of prior members without the members' approval or ratification of the action. Plaintiff concedes that Plaintiff has not pled such approval or ratification of Pierre's actions as it has no access to the records from THE GOVERNING BODY and that the necessary information can only be obtained through discovery.

According to CPLR 1025 states, "actions may be brought [ ] against the president or treasurer of an unincorporated association on behalf of the association in accordance with the provisions of the general associations law." N.Y. General Associations Law § 13 (Action or Proceeding Against Unincorporated Association) provides that:

"An action or special proceeding may be maintained, against the president or treasurer of such an association, to recover any property, or upon any cause of action, for or upon

which the plaintiff may maintain such an action or special proceeding, against all the associates, by reason of their interest or ownership, or claim of ownership therein, either jointly or in common, or their liability therefor, either jointly or severally. Any partnership, or other company of persons, which has a president or treasurer, is deemed an association within the meaning of this section.”

In *Martin v Curran*, 303 NY 276, 280 (1951), the Court of Appeals stated that an unincorporated association, unlike a corporation or partnership, is “not an artificial person, and has no existence independent of its members.” Therefore, a lawsuit against an unincorporated association must plead “proof of authorization or ratification [of the wrong doing] by all members of the group”...liability turns on whether “the individual liability of every single member can be alleged and proven” (*id.* at 280-282). THE GOVERNING BODY appears to be more akin to a group of managers or other type of division at a corporation that has no independent legal existence (*See Sheldon v Kimberly-Clark Corp.*, 111 AD3d 912 [2<sup>nd</sup> Dept 1985 [affirming the dismissal of a complaint against a division of the defendant corporation on the ground that it was not a “jural entity amendable to suit in its own right”]); *Justinian Capital SPC v WestLB AG, NY Branch*, 37 Misc3d 518 [Sup Ct., NY Cty. 2012] [dismissing an action against an entity that was “merely a division or group of asset managers”]).

The evidence before the Court reflects that THE GOVERNING BODY exerts ecclesial control related to the religious teachings of the Jehovah’s Witness church. Even if THE GOVERNING BODY also exerts some degree of control over secular matters, it is still just one group of individuals within the Congregation’s non-profit corporations, and thus cannot be sued as its own entity absent a justification for corporate veil piercing, which Plaintiff does not suggest.

In addition, even if the Court found that THE GOVERNING BODY was a proper jural entity to be sued, Plaintiff has failed to effectuate proper service. A review of the Plaintiff’s affidavit of service for THE GOVERNING BODY indicates that the process server served the

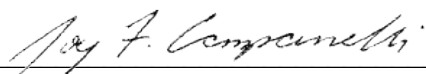
Summons and Complaint on the front gate security guard, who stated that he cannot accept any documents. As such, Plaintiff has failed to obtain jurisdiction over the Defendant THE GOVERNING BODY. Consequently, THE GOVERNING BODY's motion to dismiss is GRANTED.

Accordingly, it is hereby

ORDERED that THE GOVERNING BODY's motion to dismiss (Seq. 002) is GRANTED and the complaint as against Defendant THE GOVERNING BODY is dismissed.

This constitutes the decision and order of the Court.

Dated: May 21, 2024  
Brooklyn, NY

  
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Hon. Joy F. Campanelli, J.S.C.