

Court File No.: CV-15-533769

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

**FATHER PETER AVGEROPOULOS, FATHER KONSTANTINOS PAVLIDIS,
FATHER PHILIP PHILIPPOU and FATHER SPYRIDON VITOULADITIS**

Plaintiffs

- and -

**GREEK COMMUNITY OF TORONTO, GEORGE ALIKAKIS,
ANTONIS ARTEMAKIS, ATHANASIOS BROUMAS,
SAM CASTRINOS, ANASTASIOS CHATZITHEOFANOU,
ANASTASIA GANNOGIANNIS-REID, NIKONA GEORGAKAOPOULOS,
ARGIRIOS HAROS, MARTHA HENTY, HERMES IORDANOUS,
DIONISIOS KOSMATOS, DIMITRIOS MILIARIS, MANOLIS MYLONAKIS,
GEORGE NIKOLOU, SEMELA SETETIDIS, PETER THEMELIOPOULOS,
ZSIS VOKA, JOHN BOSIOS and PETER APOSTOLOPOULOS**

Defendants

STATEMENT OF DEFENCE

1. The Defendants admit the allegations contained in paragraphs 4, 5, 6, 7, 8 and 9 of the Statement of Claim.
2. The Defendants deny the allegations contained in paragraphs 1, 2, 3, 10, 11, 12, 13, 14, 15, 16 and 17 of the Statement of Claim.
3. The Defendants have no knowledge in respect of the allegations contained in paragraph 18 of the Statement of Claim.
4. The Defendants deny that there exists a contract of employment between the Defendant, The Greek Community of Toronto (hereinafter "GCT") and the Plaintiffs.
5. The particulars supporting the Defendants' position in this regard are:

- (a) The GCT has neither authority to commence nor terminate an employment relationship with any of the Plaintiffs specifically, nor any priest, generally. The Metropolis Archbishop Sotirios of the Toronto diocese, a.k.a. His Eminence Metropolitan Archbishop Sotirios, and, also, a.k.a. Sotirios Athanassoulas, (hereinafter "the Metropolis") currently has sole authority in this regard;
- (b) The Plaintiff Priests, as spiritual leaders of their respective congregations, take direction from and answer to their spiritual leader the Metropolis in the day to day conduct of their earthly affairs and priestly duties. Neither the GCT nor the Defendant Directors have any authority over the Plaintiffs in this regard;
- (c) In the past, representatives for the Defendant GCT had requested the implementation of a common law contract between it, the Plaintiffs and the office of the Metropolis to better define the parties' respective relationship within the context of Canadian Law. The Plaintiffs' superior, the Metropolis, refused this request and denied that the Plaintiffs specifically, and priests generally, are employees of the Defendant GCT;
- (d) The position and duties of a Greek Orthodox Priest is created by and governed by Greek Orthodox Canonical Law;
- (e) The Defendant, GCT, as directed by the Defendant Directors, has historically provided financial support through contributions by the various congregations to the various offices filled by the Plaintiffs, understanding that without such material support, the Plaintiffs and priests generally, could not fully commit to their role as "spiritual leader" within their respective communities;
- (f) The quantum of financial support provided by the congregations is determined by the Metropolis; and,

- (g) The GCT and the balance of the Defendant directors have limited, if any, control over the priestly duties of the Plaintiffs.

6. If there is found to be a common law obligation between the GCT, and the Plaintiffs, which is specifically denied, then the GCT, supported by the Defendant Directors, state that it properly stopped providing the Plaintiffs their financial "stipends" because the Plaintiffs fundamentally breached the terms of their alleged agreement by failing to fulfil their priestly duties pursuant to the principles of Greek Canonical Law and the Canadian common law equitable principle of natural justice.

7. The Defendants state that the Plaintiffs, as ordained Greek Orthodox Priests, must fulfil the duties of their office pursuant to Greek Canonical Law and failure to do so is a breach of the common-law agreement as alleged by the Plaintiffs.

8. The particulars in support of the Defendants' position are:

- (a) In the Greek Orthodox Tradition, some female members of a church will gather together to volunteer to provide religious and outreach services for the poor, disabled, widowed, and orphaned. These associations are named the Philoptochos or the Pronia (hereinafter 'Women's Auxiliaries'). These associations accumulate "revenue" through charitable contributions and, occasionally, a form of payment in recognition of the services they provide. The associations will also incur expenses in furtherance of their efforts. Charitable receipts for donations provided to any of the four (4) Women's Auxiliaries operating within any of the four (4) GCT Churches have always been and continue to be issued by the GCT;
- (b) The Defendant Directors passed a resolution to take effect on or about January 12, 2015, which, amongst other items, required that all persons providing services within the GCT and which earned revenue and/or created expense, must maintain a complete written record of their

financial activities to ensure compliancy with Canadian Revenue Agency regulations and other laws of Canada;

- (c) The Metropolis ordered the members of the four (4) GCT Women's Auxiliary to ignore the resolution. The members of the women's auxiliary did not ignore the resolution;
- (d) Immediately thereafter, the Metropolis, in contravention of Greek Canonical Law and in violation of Fundamental Justice, excommunicated the members of the women's Auxiliary of the four (4) GCT congregations. The Metropolis put into effect his order by informing the Plaintiffs of his decision by a signed letter;
- (e) The Plaintiffs knew, or ought to have known, that the excommunication order of the Metropolis was improper because Greek Canonical Law requires that the remedy of excommunication can only be put in effect at the conclusion of a properly constituted Ecclesiastical Court after a proper "trial" as directed by Greek Canonical Law;
- (f) After the Metropolis' announcement of excommunication, the Plaintiffs refused to provide spiritual leadership and sacramental rites to members of the 'Women's Auxiliaries' of the four (4) GCT congregations, despite knowing that these women were unlawfully, improperly, and, in violation of the Greek Canonical Law excommunicated by the Metropolis and were excommunicated in a manner which denied these individuals access to natural justice as demanded by Canadian law;
- (g) After the Metropolis' announcement of excommunication, the Plaintiffs were ordered by the Metropolis, or elected by their own volition, to refuse to comply with the Defendant Directors' January 1, 2015 resolution concerning the maintenance of a written financial record for each of the four (4) GCT Women's Auxiliaries and refused to make and distribute routine announcements concerning the activities of the Women's

Auxiliary thus intentionally and with mala fides impeding the good works of the affected women;

- (h) The GCT, supported by the Defendant Directors, resolved to withhold the Plaintiff's "stipend" until the Plaintiffs fulfilled their obligations as Priests in the Greek Orthodox tradition with respect to the ladies affected by the excommunication order.

9. In the further alternative, if it is determined that there is a common law contract of employment between the Plaintiffs and the Defendant, Greek Community of Toronto, and that the Plaintiffs' "stipends" were improperly denied to them, which is specifically denied, then the Defendant, GCT, supported by the Defendant Directors, state that the Plaintiffs, either directly or indirectly through the use of privately held corporations, unregistered businesses, sole proprietorships, and/or direct family members and/or their "employees", have been fully able to mitigate their losses. Some particulars of the Plaintiffs' mitigation efforts are:

- (a) charging parishioners for graveside blessings;
- (b) charging parishioners for funeral rites inside and outside the Church;
- (c) soliciting direct payment from the parishioners of the various churches;
- (d) selling religious icons;
- (e) charging parishioners for house blessings;
- (f) such further and other activities as they become known.

10. The Defendants state that the Plaintiffs have each breached: (a) the GCT's Constitution, by-laws, and regulations; (b) the Metropolis' Uniform Community Regulations, by-laws, regulations, and instructions; (c) Greek Orthodox Canonical Law; and, (d) the laws of Canada, by failing to honestly and accurately disclose all of their taxable income and benefits on their personal tax returns. The Defendants request a complete and full disclosure of all of the Plaintiffs' true and accurate revenue and

income and taxable benefits, generated since their emplacement at the GCT Churches' as spiritual leaders by the Metropolis to date and ongoing to Trial.

11. The Defendants state that Section 131 of the *Ontario Business Corporations Act* has no applicability to the factual circumstances of this claim.

12. The Defendants further deny that the Plaintiffs are entitled to additional damages for "high-handed, callous and outrageous conduct". Rather, the Plaintiffs have flagrantly ignored both Greek Orthodox Canonical Law and Canadian Law, as well as the spirit of natural justice. The Plaintiffs' actions towards members of the four (4) Women's Auxiliaries operating in the four (4) GCT Churches are improper and, indeed, reprehensible given their refusal to provide spiritual and sacramental communion to this group of vulnerable women.

13. The Defendants therefore submit that this action be dismissed with costs on a substantial indemnity basis.

March 1, 2016

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Avgeropoulos et al. v. Greek Community et al.

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Proceeding commenced at Toronto

STATEMENT OF DEFENCE

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