

Patrick J. Neligan, Jr.
State Bar. No. 14866000
Douglas J. Buncher
State Bar No. 03342700
John D. Gaither
State Bar No. 24055516
NELIGAN LLP
325 North St. Paul, Suite 3600
Dallas, Texas 75201
Telephone: 214-840-5300
pneligan@neliganlaw.com
dbuncher@neliganlaw.com
jgaither@neliganlaw.com

COUNSEL FOR DEBTOR

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE: § **CHAPTER 11**
§
ALL SAINTS EPISCOPAL CHURCH¹ § **CASE NO. 21-42461-elm11**
§
DEBTOR §

ALL SAINTS EPISCOPAL CHURCH, §
a Texas Non-Profit Corporation, §
§
Plaintiff, §
§
v. § **ADV. PRO. NO. 21-04082-ELM**
§
ALL SAINTS EPISCOPAL CHURCH, §
an Unincorporated Association in Union §
with the Episcopal Diocese of Fort §
Worth, and THE CORPORATION §
OF THE EPISCOPAL DIOCESE OF §
FORT WORTH, §
§
Defendants. §

PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT

¹ The last four digits of the Debtor’s tax identification number are 5880.

Plaintiff All Saints Episcopal Church (the “Debtor”), as debtor and debtor-in-possession, files this motion (the “Motion”) pursuant to Rule 56 and Bankruptcy Rule 7056 to request entry of summary judgment on certain of its claims and defenses against All Saints Episcopal Church, an unincorporated non-profit religious association affiliated with the Episcopal Diocese of Fort Worth, and the Corporation of the Episcopal Diocese of Fort Worth (collectively, “Defendants”). Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the brief (the “Brief”) filed in support of this Motion.

I. SUMMARY

1. By this Motion, the Debtor moves for summary judgment on the following claims contained in the Plaintiff’s Second Amended Complaint (the “Complaint”) [Docket No. 18]:

- a. Count 1: Request for a Declaration that the Debtor’s Real Properties are Owned by the Debtor and are Property of the Debtor’s Estate Under Section 541(a) of the Bankruptcy Code [Complaint at ¶ 34]. The undisputed summary judgment evidence establishes that the Debtor is the owner of the Real Properties as a matter of law.
- b. Count 2: Request for a Declaration that the Debtor’s Financial Assets are Owned by the Debtor and are Property of the Debtor’s Estate Under Section 541(a) of the Bankruptcy Code [Complaint at ¶ 35]. The undisputed summary judgment evidence demonstrates that the Debtor is the owner of the Financial Assets as a matter of law.
- c. Count 4: Request for a Declaration that the Debtor Owns the Name All Saints Episcopal Church in Fort Worth, Texas [Complaint at ¶ 37]. The undisputed summary judgment evidence demonstrates that the Debtor’s corporate name is “All Saints Episcopal Church” and that the Debtor has used that name continuously since 1953. The Debtor is therefore entitled to summary judgment declaring that it is entitled to use its own name.
- d. Count 6: Objection to Proof of Claim No. 7 [Complaint at ¶¶ 39-42]. Defendants can establish no basis for an allowable claim against the Debtor and therefore Defendants’ Proof of Claim must be disallowed in its entirety.

2. The Debtor further moves for summary judgment on the following counterclaims contained in the Defendants’ Amended Answer and Amended Counterclaims (the “Counterclaims”) [Docket No. 20]:

- a. Defendants' request for an injunction to prohibit the Debtor from using the name All Saints Episcopal Church [Counterclaims at ¶¶ 61-64]. Because the summary judgment evidence establishes that the Debtor is entitled to use its own name, and that such name is property of the Debtor's estate, Defendants' request for an injunction prohibiting the Debtor from using its own name fails as a matter of law.
- b. Defendants' request for a declaration that ACNA All Saints is the equitable owner of certain of the Real Properties (4936 Dexter, 4939 Dexter, and 5001 Dexter), and request for an injunction to prohibit the sale of those Real Properties and to require the Debtor to relinquish control of those Real Properties [Counterclaims at ¶¶ 65-67]. Because the summary judgment evidence establishes that the Debtor owns these properties, Defendants' claims to these properties fail as a matter of law.
- c. Defendants' request for a declaration that ACNA All Saints owns the Financial Assets and other personal property and request for an injunction requiring the Debtor to delivery such property to ACNA All Saints [Counterclaims at ¶¶ 68-74]. Because the summary judgment evidence establishes that the Debtor owns these assets, Defendants' claims to these assets fail as a matter of law.
- d. Defendants' request for a declaration that the Diocesan Corporation is the legal and equitable owner of 5005 Dexter and request for an injunction requiring the Debtor to deliver possession of that Real Property to the Diocesan Corporation [Counterclaims at ¶¶ 75-77]. Because the summary judgment evidence establishes that the Debtor holds equitable title to this property, Defendants' claim to the property fails as a matter of law

3. There is no genuine dispute as to any material fact with respect to the foregoing claims and counterclaims, and for the reasons stated in the Brief the Debtor is entitled to judgment as a matter of law.

4. If the Motion is granted in full, the only remaining claims for trial will be Counts 3 and 5 of the Complaint:

- a. Count 3: Tortious Interference with Existing or Prospective Contractual Relations [Complaint at ¶ 36];
- b. Count 5: Request for Injunctive Relief with Respect to Use of the Name All Saints Episcopal Church in Fort Worth, Texas [Complaint at ¶ 38].

II. MATTERS REQUIRED BY N.D. TEX. L.B.R. 7056-1(C)

5. With the exception of the summary set forth above, each of the matters required by N.D. Tex. L.B.R. 7056-1(c)(1) will be set forth in the Brief.

III. CONCLUSION & PRAYER

6. For the reasons set forth above and the Debtor's brief in support of this Motion, the Debtor requests entry of an order (i) granting this Motion and entering judgment in favor of the Debtor against the Defendants with respect to the claims and counterclaims set forth above, and (ii) awarding the Debtor any further relief the Court deems appropriate. In the event the Court does not grant the Motion in full, the Debtor requests that the Court enter an order under Rule 56(g) stating the facts that are not genuinely in dispute and treating such facts as established in the case.

Dated: June 17, 2022

Respectfully submitted,

/s/ Patrick J. Neligan, Jr.

Patrick J. Neligan, Jr.

Texas Bar No. 14866000

pneligan@neliganlaw.com

Douglas J. Buncher

State Bar No. 03342700

dbuncher@neliganlaw.com

John D. Gaither

Texas Bar No. 24055516

jgaither@neliganlaw.com

NELIGAN LLP

325 N. St. Paul, Suite 3600

Dallas, Texas 75201

Telephone: (214) 840-5300

COUNSEL FOR THE DEBTOR

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 17, 2022, a true and correct copy of the foregoing was served on all counsel of record in this proceeding via the Court's ECF system.

/s/ John D. Gaither

John D. Gaither