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Dwelling Place Anaheim, f/k/a Vineyard
7 Christian Fellowship of Anaheim (erroneously named
as Vineyard Christian Fellowship of Anaheim, Inc.
8 d/b/a Dwelling Place Anaheim)

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF ORANGE

12 CAROL WIMBER, STEVE BRAY, NANCY
BRAY, STEPHANIE RUPPE, DAVID
13 EDMONDSON, LANCE PITTLUCK, DON
SALLADIN, JOE GILLENLINE, JAMES
14 GILLENLINE, each individually and
derivatively on behalf of VINEYARD
15 CHRISTIAN FELLOWSHIP OF ANAHEIM,
INC., dba DWELLING PLACE ANAHEIM, a
16 California Nonprofit Religious corporation,

17 Plaintiffs,

18 v.

19 ALAN SCOTT, an individual, KATHRYN
SCOTT, an individual, JEREMY RIDDLE, an
20 individual, KATIE RIDDLE, an individual,
GREGORY SCHERER, an individual,
21 BANNING LEIBSCHER, an individual,
JULIAN ADAMS, an individual, and DOES 1-
22 50, inclusive,

23 Defendants.

24 DWELLING PLACE ANAHEIM, f/k/a
VINEYARD CHRISTIAN FELLOWSHIP OF
25 ANAHEIM, a California Nonprofit Religious
corporation,

26 Nominal Defendant.

Case No. 30-2022-01291272-CU-FR-WJC

**NOTICE OF HEARING ON
DEMURRER;**

**DEMURRER OF NOMINAL
DEFENDANT DWELLING PLACE
ANAHEIM, F/K/A VINEYARD
CHRISTIAN FELLOWSHIP OF
ANAHEIM TO PLAINTIFFS'
COMPLAINT;**

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

Hon. Sheila Recio

[Filed with Request for Judicial Notice and
Declarations of John C. Peiffer II and James
W. Renwick]

Date: June 2, 2023
Time: 9:30 a.m.
Dept. W08
Reservation ID: 73949067

Action Filed: November 10, 2022
Trial Date: No Date Set

1 **TO ALL PARTIES, THE COURT, AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on June 2, 2023, at 9:30 a.m., or as soon thereafter as the
3 parties may be heard before the Honorable Sheila Recio in Department W08 of the above-entitled
4 court, located at 8141 13th Street, Westminster, California, there will be a hearing on the demurrer
5 of Nominal Defendant Dwelling Place Anaheim, f/k/a Vineyard Christian Fellowship of Anaheim
6 (the “Church”) to the Complaint filed in this action on or about November 10, 2022 by Plaintiffs
7 Carol Wimber, Steve Bray, Nancy Bray, Stephanie Ruppe, David Edmondson, Lance Pittluck,
8 Don Salladin, Joe Gillentine, and James Gillentine (collectively, the “Plaintiffs”), and to each
9 purported cause of action alleged therein.

10 The Nominal Defendant’s demurrer is and will be brought on the grounds that, with
11 respect to the Complaint as a whole and to each purported cause of action alleged therein, (a) the
12 Court lacks jurisdiction over the subject matter of Plaintiffs’ alleged claims, and (b) the Plaintiffs,
13 and each of them, lack capacity and standing to bring the purported causes of action allegedly
14 brought on behalf of or for the benefit of the Nominal Defendant.

15 The demurrer follows the Nominal Defendant’s timely compliance with the meet-and-
16 confer requirements of California Code of Civil Procedure section 430.41. As discussed in the
17 accompanying Declaration of John C. Peiffer, Plaintiffs’ counsel and the Church’s counsel were
18 unable to come to an agreement on the issues raised in this Demurrer. Code Civ. Proc.,
19 § 430.41(a)(3)(A).

20 The demurrer is and will be brought pursuant to California Code of Civil Procedure
21 sections 430.10 and 430.30 and is and will be based on this Notice of Hearing, the attached
22 Demurrer and Memorandum of Points and Authorities, the concurrently-filed Declaration of
23 James W. Renwick and Exhibits thereto, the concurrently-filed Request for Judicial Notice, the
24 other pleadings and papers on file in this action, and such other or further evidence and argument
25 as may be permitted prior to the Court’s ruling on the demurrer.

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Dated: February 9, 2023

Respectfully submitted,

BROWN & STREZA, LLP

By: 
John C. Peiffer II
Casey S. Hale

Attorneys for Nominal Defendant
Dwelling Place Anaheim, f/k/a Vineyard
Christian Fellowship of Anaheim (erroneously
named as Vineyard Christian Fellowship of
Anaheim, Inc. d/b/a Dwelling Place Anaheim)

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1 **DEMURRER**

2 Nominal Defendant Dwelling Place Anaheim, f/k/a Vineyard Christian Fellowship of
3 Anaheim (erroneously named as Vineyard Christian Fellowship of Anaheim, Inc. d/b/a Dwelling
4 Place Anaheim) (the “Church”),¹ hereby demurs to the Complaint filed in this action, and to each
5 purported cause of action alleged therein, as follows:

6 **I.**

7 **Demurrer to First Cause of Action for Fraud**

8 The Church demurs to the purported First Cause of Action for Fraud alleged in the
9 Complaint on each of the following grounds:

- 10 1. The court has no jurisdiction of the subject of the purported First Cause of
11 Action alleged in the Complaint (Cal. Code Civ. Proc. § 430.10(a));
- 12 2. The purported First Cause of Action fails because none of the persons who
13 filed the pleading has the legal capacity and/or standing to sue for or on
14 behalf of the Nominal Defendant (Cal. Code Civ. Proc. §§ 430.10(b),
15 430.10(e)).

16 **II.**

17 **Demurrer to Second Cause of Action for Negligent Misrepresentation**

18 The Church demurs to the purported Second Cause of Action for Negligent
19 Misrepresentation alleged in the Complaint on each of the following grounds:

- 20 3. The court has no jurisdiction of the subject of the purported Second Cause
21 of Action alleged in the Complaint (Cal. Code Civ. Proc. § 430.10(a));
- 22 4. The purported Second Cause of Action fails because none of the persons
23 who filed the pleading has the legal capacity and/or standing to sue for or
24 on behalf of the Nominal Defendant (Cal. Code Civ. Proc. §§ 430.10(b),
25 430.10(e)).

26 _____
27 ¹ Until January 2023, the Church’s formal corporate name was Vineyard Christian Fellowship of
28 Anaheim, but it was erroneously identified in the Complaint as Vineyard Christian Fellowship of
Anaheim, Inc. The Church was joined as the Nominal Defendant in this lawsuit under that erroneous
name.

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III.

Demurrer to Third Cause of Action for Breach of Fiduciary Duty

The Church demurs to the purported Third Cause of Action for Breach of Fiduciary Duty alleged in the Complaint on each of the following grounds:

- 5. The court has no jurisdiction of the subject of the purported Third Cause of Action alleged in the Complaint (Cal. Code Civ. Proc. § 430.10(a));
- 6. The purported Third Cause of Action fails because none of the persons who filed the pleading has the legal capacity and/or standing to sue for or on behalf of the Nominal Defendant (Cal. Code Civ. Proc. §§ 430.10(b), 430.10(e)).

IV.

Demurrer to Fourth Cause of Action for Declaratory Relief

The Church demurs to the purported Fourth Cause of Action for Declaratory Relief alleged in the Complaint on each of the following grounds:

- 7. The court has no jurisdiction of the subject of the purported Fourth Cause of Action alleged in the Complaint (Cal. Code Civ. Proc. § 430.10(a));
- 8. The purported Fourth Cause of Action fails because none of the persons who filed the pleading has the legal capacity and/or standing to sue for or on behalf of the Nominal Defendant (Cal. Code Civ. Proc. §§ 430.10(b), 430.10(e)).

V.

Demurrer to Fifth Cause of Action for Permanent Injunction

The Church demurs to the purported Fifth Cause of Action for Permanent Injunction alleged in the Complaint on each of the following grounds:

- 9. The court has no jurisdiction of the subject of the purported Fifth Cause of Action alleged in the Complaint (Cal. Code Civ. Proc. § 430.10(a));
- 10. The purported Fifth Cause of Action fails because none of the persons who filed the pleading has the legal capacity and/or standing to sue for or on

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behalf of the Nominal Defendant (Cal. Code Civ. Proc. §§ 430.10(b),
430.10(e)).

Dated: February 9, 2023

BROWN & STREZA, LLP

By: 
John C. Peiffer II
Casey S. Hale

Attorneys for Nominal Defendant
Dwelling Place Anaheim, f/k/a Vineyard
Christian Fellowship of Anaheim (erroneously
identified as Vineyard Christian Fellowship of
Anaheim, Inc. d/b/a Dwelling Place Anaheim)

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. INTRODUCTION**

3 The religion clauses of the First Amendment to the U.S. Constitution protect the
4 autonomy of churches and religious institutions by limiting the state’s ability to regulate
5 inherently religious matters. As the U.S. Supreme Court has explained, the First Amendment and
6 its “Church Autonomy Doctrine” prohibit the government—including its secular courts—from
7 interfering with church governance and matters of faith and doctrine. *Our Lady of Guadalupe*
8 *Sch. v. Morrissey-Berru* (2020) 140 S. Ct. 2049, 2055. This prohibition is absolute, and it is quite
9 broad, including “not only issues of religious doctrine per se, but also issues of membership,
10 clergy credentials and discipline, and church polity and administration.” *Concord Christian Ctr.*
11 *v. Open Bible Standard Churches* (2005) 132 Cal. App. 4th 1396, 1411 (citations omitted).

12 In this case, Plaintiffs ask the Court to insert itself into a purely ecclesiastical dispute
13 regarding Dwelling Place Anaheim, the Nominal Defendant (“the Church”). Resolution of
14 Plaintiffs’ claims would require the Court to evaluate and decide issues related to the personal
15 religious beliefs and teachings of the Individual Defendants and the doctrinal and pastoral
16 direction of the Church. Plaintiffs seek to have this Court nullify the 2022 decisions of Alan
17 Scott, the Church’s Senior Pastor, to (1) change the name of the Church and (2) disassociate from
18 a voluntary association of churches known as “Vineyard” churches. Pastor Scott is the spiritual
19 leader charged with authority for ecclesiastical matters under the Church’s Bylaws.

20 Rather than honor the Senior Pastor’s decisions in these ecclesiastical matters, however,
21 Plaintiffs contend that as long as *five years ago*, when he was selected to serve as Senior Pastor,
22 Pastor Scott already knew and intended that he would lead the Church to disassociate from the
23 voluntary association of Vineyard churches, because he was not truly “Vineyard through and
24 through” as he had said he was when he interviewed to serve as Senior Pastor in 2017-2018. That,
25 they claim, was fraud. And on that basis, they ask this Court to remove Pastor Scott as Senior
26 Pastor of the Church, remove the Church’s entire board (accusing them of breach of fiduciary
27 duties), and replace them with a group of former Church members and directors who say *they* are
28 “Vineyard through and through” and will re-associate with the Vineyard churches.

1 Here, Plaintiffs expressly contend that their overriding concern is that the Individual
2 Defendants have caused the Church “to abandon its religious purpose” by disassociating from the
3 voluntary association of Vineyard churches. (Compl., ¶ 103.) Their Complaint is premised on the
4 contention that, when Pastor Scott was questioned about theological issues and practices during
5 the interview and spiritual discernment process that resulted in his appointment as Senior Pastor,
6 he misleadingly claimed he was “Vineyard through and through,” which Plaintiffs interpreted to
7 mean being “committed to the Vineyard Movement to the exclusion of other Christian
8 movements.” (*Id.*, ¶ 43.) Purely ecclesiastical matters—like what it means to be “Vineyard
9 through and through”—are outside the subject matter jurisdiction of this secular Court. The
10 demurrer must be sustained on that ground alone.

11 In addition, the Plaintiffs do not have standing to pursue claims on behalf of the Church.
12 As a general matter, a corporation’s board of directors has the sole authority and discretion to
13 decide whether and how the corporation should engage in litigation. Even with respect to for-
14 profit corporations, shareholders are strictly limited in their ability to bring a so-called “derivative
15 action” on behalf of the corporation. Here, the Church is a California Nonprofit Religious
16 Corporation. (Compl., ¶ 12.) In keeping with the principle of secular non-interference in
17 ecclesiastical matters, the circumstances under which members of a nonprofit religious
18 corporation may bring a derivative action on behalf of a church are extremely narrow, and the
19 claims must fit within one of several statutorily circumscribed areas. As set forth below,
20 Plaintiffs’ claims in this case do not satisfy any of the statutory bases for bringing a derivative
21 action on behalf of the Church. Perhaps even more significantly, **the Plaintiffs are not even**
22 **“members” of the Church** as required by the Corporations Code and as defined in the Church’s
23 Bylaws. As such, they have no right to seek to sue on behalf of the Church. And, even if Plaintiffs
24 were members of the Church (which they are not), and even if their claims fell within the
25 statutory scope of permissible derivative claims (which they do not), the Complaint fails to plead
26 facts sufficient to show that the Church board’s decision not to take up this action on behalf of the
27 Church “was so clearly against the interests of the corporation that it must be concluded that the
28 decision of the directors did not represent their honest and independent judgment.” *Findley v.*

1 *Garrett* (1952) 109 Cal. App. 2d 166, 177. Given that these matters are purely ecclesiastical, this
2 Court must defer to the decisions of the Senior Pastor and the Church’s board and dismiss the
3 Complaint. *See Findley*, 109 Cal. App. 2d at 174-79.

4 **II. FACTUAL BACKGROUND**

5 **A. The Church**

6 The Church was founded by Pastor John Wimber and was incorporated in 1979 under the
7 name of Calvary Chapel of Yorba Linda/Placentia. (*See* Request for Judicial Notice (“RJN”), Ex.
8 1 (original Articles of Incorporation)). As reflected in the Church’s original Articles, the Church
9 was founded as a purely “local” church. (*Id.*) Indeed, just a few years later in 1982, John Wimber
10 disassociated the Church from the Calvary Chapel movement, changing the name of the Church
11 to Vineyard Christian Fellowship of Placentia and then, in 1983, to Vineyard Christian
12 Fellowship of Anaheim. (*See* RJN, Exs. 2 & 3.) Even after four decades and multiple name
13 changes, the Church’s primary and specific purposes delineated in Church’s Articles have
14 remained unchanged.

15 Pastor Wimber was a charismatic leader and spiritual pioneer, who is credited with
16 founding the so-called “Vineyard Movement,” which Plaintiffs describe as a “spiritual
17 awakening” at the crossroads of the Evangelical and Pentecostal/Charismatic traditions within
18 Protestant Christianity. (*See* Compl., ¶¶ 24-28.) Through Wimber’s pastoral teaching, the
19 “Vineyard Movement” came to be known for certain “distinctives” related to its theology and
20 practices. (*See id.*) Soon, “a loose-knit fellowship of churches” was practicing the Vineyard
21 distinctives, which grew into an even larger, voluntary “association” of Vineyard churches. (*Id.*)

22 Although the Church had a certain primacy of place within the Vineyard Movement due
23 to Pastor Wimber’s presence, the Church itself remained independent and local. As reflected in
24 the Church’s Articles and Bylaws, there was no intent or interest in establishing a new
25 “denomination” or erecting a hierarchical structure over the “spiritual awakening” that was the
26 Vineyard Movement. This is reflected even today in the Church’s current Bylaws, which establish
27 that the Senior Pastor alone has “ultimate responsibility” for “[a]ll ecclesiastical matters relating
28 to the church,” and that the government of the Church resides in its board, under the leadership of

1 the Senior Pastor, subject only to “the Lordship and direction of Jesus Christ.” (RJN, Ex. 5, pp. 6-
2 7, 10-11, 20 & 22.) There is no submission of the Church to any other authority such as, for
3 example, the voluntary association of churches known as “Vineyard USA” (“VUSA”).

4 **B. Church Property**

5 The Complaint makes a number of confusing allegations about “misappropriation of
6 nearly \$62,000,000 in combined real property and bank deposit assets by the [Individual]
7 Defendants.” (Compl., ¶ 1.) For example, the Complaint refers to “taking the approximately
8 \$62,000,000 of assets” and “remov[ing] [the Church] and its \$62,000,000 in assets from the
9 worldwide Vineyard Movement.” (*Id.*, ¶¶ 54-55.) But nothing has been “taken” or “removed”
10 from the Church or from anyone else. For example, there is no allegation that the property was
11 held in trust, and there is no allegation that the property belonged to VUSA or the Vineyard
12 Movement. Nor could there be. The Church has always held its real estate and financial assets
13 directly in its own name. (*See* Compl., ¶ 85 (assets were “owned by Vineyard Anaheim,” *i.e.*, the
14 Church).) The property remains exactly where it has always been from 1979 to 2023—in the
15 name and possession of the Church. The Senior Pastor and Church’s board operate under the
16 strict federal and state rules applicable to religious organizations exempt under Section 501(c)(3)
17 of the Internal Revenue Code, which prescribe limits on how assets are managed, compensation
18 for officers and employees, and a litany of other unique requirements.

19 **C. Church Membership**

20 The Complaint also confusingly refers to certain of the Plaintiffs as “active and tithing” or
21 “active associate and tithing member(s)” of the Church. (*See* Compl., ¶¶ 2-6, 58.) This appears to
22 be an effort to assert standing to sue on behalf of the Church. However, the Corporations Code
23 specifically acknowledges that a church “may refer to persons associated with it as ‘members’
24 even though such persons are not members within the meaning of [Corporations Code] Section
25 5056; but references to members in this part [including references to who may bring suit in the
26 name of the corporation] mean members as defined in Section 5056.” Corp. Code § 9332(a).
27 Section 5056, in turn, defines “member” to include only those persons who, pursuant to a specific
28 provision of the corporation’s articles or bylaws, have the right to vote for the election of a

1 director or directors, for the disposition of corporate assets on a merger or dissolution, or for
2 changes to the articles or bylaws. Corp. Code § 5056(a).

3 Here, the Church’s Bylaws define the “voting members of this corporation” as “the
4 persons who from time to time are the members and Officers of the Board of Directors of this
5 corporation in the capacity of President, Vice President, and Treasurer.” (RJN, Ex. 5, p. 4.) The
6 Bylaws also provide that “[m]embers who are not voting members shall be associate members,”
7 and “[t]he associate membership of this corporation shall be open to any believing and confessing
8 Christian, who acknowledges and accepts Jesus Christ as Lord and Savior, who is willing to
9 subscribe to the policies of this corporation.” (*Id.*) According to the Bylaws, associate (non-
10 voting) members “consent[] to be bound by all provisions of these Bylaws and policies as set by
11 the pastoral staff or Board of Directors.” (*Id.*, p. 20.) In short, none of the Plaintiffs is a voting
12 member of the Church; *i.e.*, none of them is a “member,” as defined by the Corporations Code,
13 who might have a right to sue on behalf of the Church.

14 **D. The Role of the Church’s Board**

15 The Complaint acknowledges that the Church’s Bylaws give the Senior Pastor “significant
16 decision-making authority over the ministry operations and control of the Board of Directors.”
17 (Compl., ¶ 41.) In fact, the Bylaws provide: “All ecclesiastical matters relating to the spiritual
18 health of the corporation, matters of doctrine and interpretation, matters of spiritual ordinances for
19 the corporation, direction of ministry, leading and discernment for initiating or terminating
20 ministry activities, and any other matters reasonably connected to spiritual leadership shall be the
21 sole prerogative of the President (Senior Pastor) and the Senior Level Pastors (Oversight Team)
22 *and shall not be subject to the collective decision of the Board of Directors.*” (RJN, Ex. 5, p. 20
23 (emphasis added); *see also id.* at p. 22.) The “Job Description” of the Board of Directors set forth
24 in the Bylaws explains that the role of the Church’s board is primarily to “oversee the business of
25 the corporation under the leadership of the President (Senior Pastor).” (*Id.*, pp. 6-7; *see also id.*, p.
26 20.) Of particular relevance here, the Church’s board is designated to play the central role if a
27 question arises as to the potential termination of the Senior Pastor. The Bylaws establish that the
28 Senior Pastor “may only be terminated upon a three-quarters (3/4) vote of the Board of

1 Director[s].” (*Id.*, p. 11 (the Bylaws then require the concurrence of a “¾ vote of the
2 congregation” after the Church’s board votes to terminate the Senior Pastor).)

3 **III. LEGAL ARGUMENT**

4 **A. Standards on Demurrer**

5 A demurrer challenges defects that appear on the face of the Complaint and from matters
6 that are judicially noticeable under Evidence Code sections 451 or 452. *Blank v. Kirwan* (1985)
7 39 Cal.3d 311, 318; Cal. Code Civ. Proc. § 430.30(a). A demurrer tests the sufficiency of the
8 complaint; to be sufficient, a complaint “must contain a statement of facts which, without the aid
9 of other conjectured facts not stated, shows a complete cause of action.” *Hawkins v. Oakland*
10 *Title Ins. & Guar. Co.* (1958) 165 Cal. App. 2d 116, 122. Contentions, deductions, or conclusions
11 of law do not suffice. *Daar v. Yellow Cab Co.* (1967) 67 Cal.2d 695, 713. Moreover, simply
12 pleading conclusions of law does not fulfill the ultimate facts requirement. *Perkins v. Super. Ct.*
13 (1981) 117 Cal. App. 3d 1, 6. Thus, the Court should sustain a demurrer where, as here, the
14 allegations fail to state a cause of action or disclose a defense or bar to recovery. Without
15 admitting the truth of the matters alleged in the Complaint, the Nominal Defendant bases this
16 demurrer on the allegations in the Complaint and matters the Court must or may judicially notice,
17 including the matters identified in the accompanying Request for Judicial Notice.

18 **B. The First Amendment Bars This Court’s Involvement In This Purely**
19 **Ecclesiastical Dispute.**

20 This lawsuit was brought for one purpose only—to obtain a Court order ousting the
21 Church’s Senior Pastor and the Church’s board and effectively reversing the Church’s decision to
22 disassociate from the voluntary association of churches that Plaintiffs describe as “the worldwide
23 Vineyard Movement.” (*See* Compl., ¶¶ 59-63 (describing Plaintiffs’ efforts to resolve the dispute
24 by “asking [the Church’s board] to reverse course and keep Anaheim Vineyard within the
25 worldwide Vineyard Movement”).) The U.S. Constitution prohibits this Court from interfering in
26 this dispute and ordering Plaintiffs’ desired outcome.

27 The First Amendment’s religion clauses protect churches’ autonomy and their right “to
28 decide for themselves, free from state interference, matters of church government as well as those

1 of faith and doctrine.” *Our Lady of Guadalupe Sch. v. Morrissey-Berru* (2020) 140 S. Ct. 2049,
2 2055 (quoting *Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in N. Am.* (1952)
3 344 U.S. 94, 116). This First Amendment “Church Autonomy Doctrine” protects churches’
4 “autonomy with respect to internal management decisions that are essential to the institution’s
5 central mission.” *Our Lady of Guadalupe*, 140 S. Ct. at 2060. The Church Autonomy Doctrine
6 not only prohibits the government’s interference in church affairs, but also places those
7 disputes—such as the ecclesiastical matters before this Court—beyond the review of secular
8 courts. *See Maxwell v. Brougher* (1950) 99 Cal. App. 2d 824, 826 (“Ecclesiastical decisions are
9 not reviewable by the secular courts.”); *accord. Vukovich v. Radulovich* (1991) 235 Cal. App. 3d
10 281, 292-94 (court lacks subject matter jurisdiction over ecclesiastical matters and disputes). The
11 First Amendment simply precludes this Court from interfering in any way with ecclesiastical
12 questions and disputes. *New v. Kroeger* (2008) 167 Cal. App. 4th 800, 815.²

13 Similarly, the “Ministerial Exception,” one aspect of the Church Autonomy Doctrine,
14 safeguards churches’ selection of religious ministers. *Our Lady of Guadalupe*, 140 S. Ct. at 2060.
15 “Under this rule, courts are bound to stay out of employment disputes involving those holding
16 certain important positions with churches and other religious institutions.” *Id.*; *see also Concord*
17 *Christian Center*, 132 Cal. App. 4th at 1411 (“ecclesiastical matters include not only issues of
18 religious doctrine per se, but also issues of membership, clergy credentials and discipline, and
19 church polity and administration.”). As the Supreme Court explained in *Kedroff*, this means that a
20 court may not “displace[] one church administrator with another” and cannot “pass[] control of
21 matters strictly ecclesiastical from one church authority to another” because “intrud[ing] for the
22 benefit of one segment of a church the power of the state into the forbidden area of religious
23 freedom [is] contrary to the principles of the First Amendment.” *Kedroff*, 344 U.S. at 119.

24 Even Plaintiffs’ own allegations reflect that this dispute is entirely ecclesiastical in nature.
25 They ask this Court to weigh in on a dispute involving the Church’s faith, doctrine, and
26 ministerial selection. For example, Plaintiffs contend that allowing the Church “to cease serving
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28 ² The free expression of religion guaranteed by the First Amendment of the United States
Constitution is also protected by Article I, Section 4 of the California Constitution.

1 as a Vineyard church *directly contradicts the entire purpose for which it formed.*” (Compl., ¶ 56
2 (emphasis added).) They also expressly describe the Church’s decision to disassociate as a
3 “*decision to abandon its religious purpose.*” (*Id.* at ¶ 103 (emphasis added).)³ Similarly, because
4 Plaintiffs disagree with an ecclesiastical decision relating to, in their view, the Church’s “religious
5 purpose,” they also ask this Court to interfere in a dispute over the Church’s ministerial personnel
6 and leadership. Plaintiffs request that this Court issue an injunction to remove and replace the
7 Church’s Senior Pastor and the Church’s board.

8 Although Plaintiffs frame their claims in terms of “breach of fiduciary duty” as to the
9 Church’s board and “fraud” as to the Scotts, Plaintiffs “cannot, by separate statement and distinct
10 characterization of divisible aspects of the transaction, achieve articulation of common law torts
11 sufficient to overcome [a court’s] preclusion from meddling in the ecclesiastical authority of the
12 church.” *Higgins v. Maher* (1989) 210 Cal. App. 3d 1168, 1176 (demurrers properly sustained
13 without leave to amend where a priest sued a bishop and church based on claims of invasion of
14 privacy, defamation, wrongful termination, and infliction of emotional distress).

15 Thus, for example, Plaintiffs contend that the Individual Defendants “have breached their
16 fiduciary duty to Anaheim Vineyard by not attempting to block these efforts to remove Anaheim
17 Vineyard from the Vineyard Movement.” (Compl., ¶ 145.) The question of whether a local
18 church should or should not be affiliated with another church or denomination is quintessentially
19 a religious matter, and a court may not insert itself in any way into the resolution of that question.
20 *See Vukovich*, 235 Cal. App. 3d at 292-94 (“we lack jurisdiction to scrutinize whether church
21 bylaws were properly observed as St. Sava’s voting membership made *the religious and*
22 *ecclesiastical decision to rejoin the Mother Church*” (emphasis added).).

23 But Plaintiffs’ breach of fiduciary duty claim in this case calls on the Court to do just that.
24 The standards applicable to a director of a nonprofit religious corporation like the Church are to
25 act “in good faith, in a manner such director believes to be in the best interests of the corporation
26 and with such care, including reasonable inquiry, as is appropriate under the circumstances.” Cal.

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28 ³ The Church’s religious purposes, as articulated in its Articles, have not changed since its
founding. (*See* RJN, Exs. 1-4.)

1 Corp. Code § 9241(a). In performing these duties, the director “may consider what the director
2 believes to be: (1) The religious purposes of the corporation; and (2) Applicable religious tenets,
3 canons, laws, policies, and authority.” Cal. Corp. Code § 9240(c). Directors are entitled to a
4 presumption that they act in good faith and in the honest belief their actions are taken in the best
5 interests of the corporation. *See Katz v. Chevron Corp.* (1994) 22 Cal. App. 4th 1352, 1366. The
6 essence of a breach of fiduciary claim is to ask a court to review a decision of the board of
7 directors and “substitute its judgment for that of the board” if it finds a breach. *Id.* The U.S.
8 Constitution, however, forbids the Court from exercising jurisdiction over any claim that would
9 put the Court in the position of deciding whether to “substitute its judgment” for that of the
10 Church’s Senior Pastor and the Church’s board concerning whether the Church should remain
11 voluntarily associated with the Vineyard churches.

12 In this regard, despite Plaintiffs’ red herring allegations about “remov[ing] [the Church]
13 and its \$62,000,000 in assets from the worldwide Vineyard Movement” (Compl., ¶ 55), this case
14 differs from cases where a local church disassociates from a “mother church” and a dispute arises
15 as to which entity owns the property used by the local church prior to the schism. A court might
16 be able to resolve that type of dispute by applying “neutral principles of law” (based on the
17 contents of legal documents such as deeds, contracts, articles of incorporation, and bylaws) so
18 long as it does not also require inquiry into ecclesiastical matters. *See Episcopal Church Cases*
19 (2009) 45 Cal.4th 467, 472-73 & 484 (“Secular courts may not decide questions involving church
20 doctrine or faith” but may use “neutral principles of law to resolve a church property dispute that
21 does not turn on questions of church doctrine”). As noted above, this case does not actually
22 present a dispute over ownership of the Church’s property. There is no allegation, for example,
23 that the Church’s property belongs to Vineyard USA or to any person or entity other than the
24 Church itself (in which case the proper plaintiff would be the other entity claiming ownership of
25 the property).⁴ As such, this case is more akin to cases where a court is asked to resolve questions

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27 ⁴ The only consequences of the Church’s decision to disassociate from the voluntary association of
28 Vineyard churches are religious in nature—there is no legal consequence to this action. For example,
the Church retains ownership of its property whether or not it remains voluntarily associated with the
Vineyard Movement.

1 about which of two factions within a church represent the “true” church and should therefore
2 control the church’s assets. But “the question of which group is the ‘true’ church is ‘clearly
3 ecclesiastical’” and therefore a “matter in which civil courts may not meddle.” *Metropolitan*
4 *Philip v. Steiger* (2000) 82 Cal. App. 4th 923, 925 & 931 (citations omitted); *accord Vukovich*,
5 235 Cal. App. 3d at 291-94.

6 Similarly, the Court may not exercise jurisdiction to consider (much less override) the
7 Church board’s decision not to pursue claims on behalf of the Church for alleged
8 misrepresentations made when Pastor Scott interviewed for the Senior Pastor position. Prior to
9 Plaintiffs’ filing of the Complaint, they presented their claims to the Church’s current board for
10 its consideration and resolution. (Compl., ¶¶ 59-63.)⁵ Though the Church’s board “failed to act in
11 a manner that satisfies Plaintiffs’ concerns” (*id.*, ¶ 63), the decision of the Church’s board ends
12 the inquiry due to the ecclesiastical nature of the matters under review. As explained in *Maxwell*,
13 decisions by “an ecclesiastical body are binding not only upon the church as such body but are
14 binding and conclusive upon the civil courts whenever pertinent and material to pending
15 litigation.” *Maxwell*, 99 Cal. App. 2d at 826-27; *see also Serbian Eastern Orthodox Diocese for*
16 *the United States of America and Canada v. Milivjevich* (1976) 426 U.S. 696, 708 (when asked to
17 review decisions related to defrockment of a bishop, appointment of a new bishop, organization
18 of a diocese, and ownership of church property, a court may not “reject[] the decisions of the
19 highest ecclesiastical tribunals . . . upon the issues in dispute, and impermissibly substitute[] its
20 own inquiry into church polity and resolutions based thereon of those disputes”).

21 In this respect, the case is analogous to *Maxwell*, where a church member presented
22 charges of misconduct sufficient to support the removal of the pastor, asking the officers of the
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24 ⁵ As reflected in the Church’s Bylaws (RJV, Ex. 5, pp. 6-7), it is a fundamental principle of corporate
25 governance that the role of managing the secular affairs of a corporation is vested in its board of
26 directors. *Grosset v. Wenaas* (2008) 42 Cal.4th 1100, 1108. This responsibility includes the authority
27 to commence, defend, and control actions on behalf of the corporation. *Id.* By presenting their claims
28 to the Church’s board before filing suit, Plaintiffs conceded that the Church’s board had the authority
and ability to act on their demand to take the requested action. *See Scattered Corp. v. Chicago Stock*
Exchange, Inc. (Del. 1997) 701 A.2d 70, 74, *overruled on other grounds, Brehm v. Eisner* (Del. 2000)
746 A.2d 244, 253-54; *see also Bezirdjian v. O’Reilly* (2010) 183 Cal.App.4th 316, 323-25; *Shields v.*
Singleton (1993) 15 Cal.App.4th 1611, 1618; *Findley v. Garrett* (1952) 109 Cal.App.2d 166, 174-79.

1 church to put the charges before the congregation. *Maxwell*, 99 Cal. App. 2d at 825. Alleging
2 irregularities in a vote of confidence presented to the congregation with respect to the charges
3 against the pastor, the member asked the court to enter a judgment “directing the manner in which
4 the officers, board and congregation . . . shall proceed in the matter of hearing and disposing of
5 [the] charges.” *Id.* In affirming the trial court’s sustaining of a demurrer without leave to amend,
6 the court explained that “[w]here the subject matter of a dispute is purely ecclesiastical in its
7 character [including] the conformity of its members to the standard of morals required of them,
8 the decision of the church tribunal will not be interfered with by the secular courts either by
9 reviewing their acts or by directing them to proceed in a certain manner or, in fact, to proceed at
10 all.” *Id.* at 826. A similar result is compelled in this case.

11 Indeed, Plaintiffs’ contention that the Scotts misled the board of directors about their
12 intentions when interviewing for the Senior Pastor position is an entirely ecclesiastical matter. To
13 begin, “secular courts will not attempt to right wrongs related to the hiring, firing, discipline, or
14 administration of clergy.” *Higgins*, 210 Cal. App. 3d at 1175.⁶ For example, where church leaders
15 allegedly made defamatory statements in the context of the terminating the church’s worship
16 director, the court had no jurisdiction because the statements at issue “necessarily implicated the
17 truth or falsity of religious doctrine.” *Gunn v. Mariners Church, Inc.* (2008) 167 Cal. App. 4th
18 206, 214. Here, Plaintiffs’ claims of fraud and negligent misrepresentation would necessitate
19 judicial inquiry into the “truth” of Pastor Scott’s religious beliefs, including his supposed
20 “dissatisfaction” with the Vineyard Movement (Compl., ¶ 48), whether he was truly “Vineyard
21 through and through” (Compl., ¶¶ 43-44), and his later “assert[ion]s that he uniquely hears from
22 God and that he is told to leave the Vineyard Movement” (*id.*, ¶ 53). These are not matters for a
23

24 ⁶ Even if a court believes that the ecclesiastical action produced a wrong or unjust result, or that a
25 church’s internal processes are inadequate to provide a remedy, the court cannot interfere. As
26 explained in *Higgins*: “[S]ecular courts will not attempt to right wrongs related to the hiring, firing,
27 discipline or administration of clergy. Implicit in this statement of the rule is the acknowledgement
28 that such wrongs may exist, that they may be severe, and that the administration of the church itself
may be inadequate to provide a remedy. The preservation of the free exercise of religion is deemed so
important a principle as to overshadow the inequities which may result from its liberal application.”
Higgins, 210 Cal. App. 3d at 1175.

1 secular court to consider.⁷

2 Plaintiffs' claims of fraud and negligent misrepresentation would also entail judicial
3 inquiry into the materiality of alleged assurances "that [the Scotts] would keep the [Church] in the
4 Vineyard Movement." (*Id.*, ¶ 47; *see also id.*, ¶ 90 ("the Search Committee and the Board were
5 very concerned with ensuring that the person(s) hired to pastor Vineyard Anaheim would be
6 absolutely committed [to] Vineyard USA and the Vineyard Movement and its distinctives").)⁸
7 Plaintiffs describe association with the Vineyard Movement as the "entire purpose" of the Church
8 (Compl., ¶ 56), notwithstanding that this alleged purpose is not set forth in the Church's Articles
9 or Bylaws. Nevertheless, as the U.S. Supreme Court has made clear, "the First Amendment
10 forbids civil courts from playing . . . a role" in "the interpretation of particular church doctrines
11 and the importance of those doctrines to the religion." *Presbyterian Church in the United States v.*
12 *Mary Elizabeth Blue Hull Memorial Presbyterian Church* (1969) 393 U.S. 440, 449-451 (courts
13 may not "determine whether actions of the general church constitute . . . a 'substantial departure'
14 from the tenets of faith and practice existing at the time of the local churches' affiliation"); *see*
15 *also Maryland & Virginia Eldership of Churches of God v. Church of God at Sharpsburg, Inc.*
16 (1970) 396 U.S. 367, 370 (Brennan, J., concurring) (courts may not exercise jurisdiction over
17 issues turning on "resolution of doctrinal questions" or "inquiry into religious policy"). This
18 Court cannot revisit the Church board's choice of Pastor Scott as the Church's Senior Pastor to
19 determine whether, with the benefit of hindsight, a different choice should have or would have

20 ⁷ In an instructive Arizona case applying these principles, a former member and a former director of a
21 church brought a derivative action relating to the church's appointment of a new priest, asserting
22 claims against the church's current and former board members for breach of fiduciary duty, and
23 asserting claims against the priest for fraud and negligent misrepresentation, based on the allegation
24 that the priest had misrepresented his qualifications as specified in the church bylaws to serve as the
25 church's leader. *Ad Hoc Comm. Of Parishioners of Our Lady of the Sun Catholic Church, Inc. v.*
Reiss (Ct. App. Ariz. 2010) 223 Ariz. 505, 508-09, 224 P.2d 1002, 1005-06. In affirming dismissal,
the court explained that it could not determine whether the priest had acted tortiously without
deciding whether he possessed the qualifications specified in the church's bylaws, which "would
require us to inquire into Church doctrine." *Id.*, 223 Ariz. at 514, 224 P.2d at 1011.

26 ⁸ Plaintiffs' allegations simply beg the question of why, if this issue was so important, the then-
27 members of the board of directors failed to mandate continued association with the Vineyard churches
28 by making such association part of the Church's Articles or Bylaws. Instead, they acted with full
knowledge that the Bylaws left such questions squarely within the "significant decision-making
authority" of Alan Scott and any future Senior Pastor of the Church. (*See* Compl., ¶ 90.)

1 been made, based on a concern that he might lead the Church away from the voluntary
2 association of Vineyard churches.

3 **C. Plaintiffs Lack Standing to Bring Derivative Claims On Behalf of the Church.**

4 It is a fundamental principle of corporate governance that the role of managing the affairs
5 of a corporation is vested in its board of directors. *Grosset v. Wenaas* (2008) 42 Cal.4th 1100,
6 1108. For example, “the decision to pursue a claim on a corporation’s behalf falls squarely within
7 the authority vested in the corporate board.” *Id.* at 1114. In certain circumstances, however, a so-
8 called “derivative action” may be brought by an interested person seeking to pursue claims on
9 behalf of the corporation. *See generally Bader v. Anderson* (2009) 179 Cal. App. 4th 775, 789-90.

10 In keeping with the principle of secular non-interference in ecclesiastical matters, the
11 scope of permissible derivative claims that may be brought on behalf of a nonprofit religious
12 corporation like the Church is severely circumscribed. The Corporations Code specifies that a
13 derivative action may be brought with respect to only five types of claims:

- 14 • By “any member suing in a representative suit . . . against the officers or directors
15 of the corporation for violation of their authority” (Corp. Code § 9141(a)(2));
- 16 • By “a member, or a former member asserting the right in the name of the
17 corporation” to “remedy a breach of a trust under which any or all of the assets of
18 a corporation are held” provided that “Section 5710 shall apply to such action”
19 (Corp. Code § 9142(a)(2));
- 20 • By any person identified in Section 9142(a)(2) to correct an “improper diversion
21 of funds” that have been “contributed based upon an affirmative representation
22 that it would be used for a specific purpose other than the general support of the
23 corporation’s activities” (Corp. Code § 9143(a));
- 24 • By “a member asserting the right in the name of the corporation” with respect to
25 impermissible self-dealing transactions with directors, provided that “Section 5710
26 shall apply to such action” (Corp. Code § 9243(c)); and,
- 27 • By “the authorized number of members”⁹ in the name of the corporation against

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⁹ The “authorized number of members” means “5 percent of the voting power.” Corp. Code § 5036.

1 the directors for the making of an illegal distribution of corporate assets (Corp.
2 Code § 9245(b)(1)).

3 Here, Plaintiffs seek to assert derivative claims on behalf of the Church against the Scotts
4 for fraud and negligent misrepresentation based on statements allegedly made when interviewing
5 for the Senior Pastor position (First and Second Causes of Action) and against all the Individual
6 Defendants for breach of fiduciary duty in causing or allowing the Church to disassociate from
7 the voluntary association of Vineyard churches (Third Cause of Action). None of those claims fall
8 within the narrow scope of the five statutory provisions that might allow for a derivative action
9 concerning a nonprofit religious corporation. And, even if they did, the demurrer to these causes
10 of action must be sustained because Plaintiffs are not “members” who could bring such claims.

11 Recognizing that a church may use the term “members” in a non-legalistic sense to
12 describe people who attend services or are otherwise associated with the church in some fashion,
13 the Corporations Code makes clear that the term “member” as it is used in the Code (such as
14 when the Code discusses derivative claims) refers solely to the legal definition of “members”
15 provided in Corporations Code section 5056. *See* Corp. Code § 9332(a). Section 5056(a) strictly
16 defines “member” as “any person who, pursuant to a specific provision of a corporation's articles
17 or bylaws, has the right to vote” in director elections, asset dispositions, mergers, dissolutions, or
18 changes to the articles and bylaws. Corp. Code § 5056(a).

19 Here, the Church’s Bylaws establish only one class of voting members: “The voting
20 members of this corporation shall be the persons who from time to time are the members and
21 Officers of the Board of Directors of this corporation in the capacity of President, Vice President
22 and Treasurer.”) (RJN, Ex. 5, p. 4.) Other “believing and confessing Christian[s] [...] who [are]
23 willing to subscribe to the policies of” the Church are eligible to be “associate members” who do
24 not have voting rights, except in the case of termination of the Senior Pastor. (*See id.*, pp. 4 & 11;
25 *see also* Corp. Code § 9332(a)) In this case, Plaintiffs allege that they “are members, former
26 members, and/or former directors of Anaheim Vineyard.” (Compl., ¶ 58.) In other words, they are
27 not voting members of the Church and thus are not “members” for the purposes of the
28 Corporations Code. They do not have standing to bring a derivative action.

1 To the extent that certain Plaintiffs (Lance Pittluck, Don Salladin, Joe Gillentine, and
2 James Gillentine) seek to premise standing to sue on their status as former directors of the Church
3 (Compl., ¶¶ 7-11), a former director does not retain authority under the Corporations Code to
4 bring suit on behalf of a corporation. *See Turner v. Victoria* (2021) 67 Cal. App. 5th 1099, 1108
5 (where term of director of nonprofit public benefit corporation expired and she was not reelected
6 to her position, she lost standing to sue on behalf of corporation); *see also Wolf v. CDS Devco*
7 (2010) 185 Cal. App. 4th 903, 906-08 (director who was not reelected when his term expired
8 lacked standing to seek inspection of corporate records). Further, as set forth above, even “former
9 members” are limited to bringing representative actions to “remedy a breach of a trust under
10 which any or all of the assets of a corporation are held” or to correct an “improper diversion of
11 funds” that have been “contributed based upon an affirmative representation that it would be used
12 for a specific purpose other than the general support of the corporation’s activities.” Corp. Code
13 §§ 9142(a)(2) & 9143(a). Any such representative action is subject to Corporations Code section
14 5710. *See id.* Section 5710 mandates that a plaintiff allege in the complaint “that the plaintiff was
15 a member at the time of the transaction” in question. Corp. Code § 5710(b)(2). Here, none of the
16 Plaintiffs was a “member” of the Church when it announced its disassociation from the voluntary
17 association of Vineyard churches and, thus, cannot bring a claim based on that “transaction.”

18 **IV. CONCLUSION**

19 For the foregoing reasons, the Nominal Defendant respectfully requests that the Court
20 sustain its demurrer to Plaintiffs’ Complaint.

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Dated: February 9, 2023

BROWN & STREZA, LLP

By: 
John C. Peiffer II
Casey S. Hale

Attorneys for Nominal Defendant
Dwelling Place Anaheim, f/k/a Vineyard
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named as Vineyard Christian Fellowship of
Anaheim, Inc. d/b/a Dwelling Place Anaheim)

3 **PROOF OF SERVICE**

4 I am employed in the County of Orange, State of California. I am over the age of 18
5 and not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400,
6 Costa Mesa, California 92626.


7 On February 9, 2023, I served, in the manner indicated below, the foregoing document
8 described as **NOTICE OF HEARING ON DEMURRER; DEMURRER OF NOMINAL**
9 **DEFENDANT DWELLING PLACE ANAHEIM, F/K/A VINEYARD CHRISTIAN**
10 **FELLOWSHIP OF ANAHEIM'S TO PLAINTIFFS' COMPLAINT; MEMORANDUM**
11 **OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** on the interested parties in
12 this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa,
13 addressed as follows:

14 See attached Service List.

- 15 BY REGULAR MAIL: I caused such envelopes to be deposited in the United States
16 mail at Costa Mesa, California, with postage thereon fully prepaid. I am readily
17 familiar with the firm's practice of collection and processing correspondence for
18 mailing. It is deposited with the United States Postal Service on that same day and that
19 practice was followed in the ordinary course of business for the service herein attested
20 to. (C.C.P. § 1013(a)).
- 21 BY ELECTRONIC MAIL/E-SERVICE: My office caused such document(s) to be
22 delivered electronically to the following email addresses,
23 nklein@tylerbursch.com; msarmiento@tylerbursch.com;
24 sgraham@swlaw.com; hprivette@swlaw.com
- 25 BY OVERNIGHT DELIVERY: I caused such envelope to be delivered by air courier,
26 with next day service, to the offices of the addressee(s). (C.C.P. § 1013(c)(d)).
- 27 BY PERSONAL SERVICE: I caused such envelopes to be delivered by hand to the
28 offices of the addressees. (C.C.P. § 1011(a)(b)).

I declare under penalty of perjury under the laws of the State of California that the
above is true and correct.

Executed on February 9, 2023, at Costa Mesa, California.


Diane Williams

1 ***Carol Wimber, et al. v. Alan Scott, et al.***
2 ***Orange County Superior Court, Case No. 30-2022-01291272-CU-FR-WJC***

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